

P o l i c y M a t t e r s



Christian Dufour

**Restoring the
Federal
Principle:
The Place of
Quebec in
the Canadian
Social Union**

January 2002

Vol. 3, no. 1

E n j e u x p u b l i c s

ISSN 1492-7004

Policy Matters

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Summary

In this study, Christian Dufour analyzes the political context within which the Social Union Framework Agreement (SUFA) was signed, in February 1999, the political developments that have taken place on the intergovernmental scene since then, and the possibilities for renewal of the Agreement from a Quebec perspective. He argues that SUFA is the most recent manifestation of an impasse between Quebec and Canada that goes back to the repatriation of the Canadian Constitution in 1982 without Quebec's consent. SUFA illustrates once again the inability of the Canadian political system to integrate Quebec's particular vision of federalism and of the country. According to the author, deteriorating Canada-Quebec relations have increasingly negative consequences for the entire country and constitute the greatest structural problem facing the country.

Though the political route appears to be blocked at present, Dufour identifies a number of avenues that could lead to a new dynamic. However, it is highly unlikely that a change of circumstances will in itself resolve the basic problem. For that to happen, the rest of Canada, as well as Ottawa, will have to recognize the specificity of Quebec, following on the Calgary Declaration and the December 1995 federal motion on the distinct society, and accept its true implications, whether it be opting out, asymmetry or, simply put, Quebec's right to be different. Only as a strong distinct society will Quebec be able to participate effectively in strengthening the Canadian social union and to share its dynamism with the rest of the country. Above all, the author highlights the fact that a strong federal principle implies the *sharing* but also the *separation* of powers between two levels of government and that this has always been vital for Quebec.

For its part, Quebec will have to become a full participant in Canadian intergovernmental relations in the field of social policy. The fact that Quebec has not signed the Agreement does not mean that it is not part of Canada, that it is not a party to Canadian federalism or that it should not be involved in federalism as it applies to social policy. According to Dufour, Quebec's dynamic and innovative approach to social policy in recent decades gives it ample credibility to defend its views in intergovernmental forums. It will also need to adapt its traditional constitutional positions to a new context wherein constitutional jurisdictions are not as clearly delimited as they once were.

Overall, Dufour argues, SUFA is not the major historical development for Canada that many had hoped it would be. The Agreement is short-sight-

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ed and it contains serious flaws and contradictions. Moreover, Quebec's non-participation clearly renders it deficient as a framework from which to chart a renewed national project.

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Introduction

The backdrop for this paper is the last section of the Social Union Framework Agreement (SUFA) reached between the federal government and all provinces and territories except Quebec on February 4, 1999. This section states that, before the end of the third year of the Agreement, the “governments will jointly undertake a full review of the Agreement and its implementation and make adjustments as required.” More generally, now, six years after the 1995 Quebec referendum and 20 years after the adoption of the *Constitution Act, 1982*, is an opportune moment to examine some of the major trends in Canadian federalism, both in general and as they relate to Quebec.

It is by no means clear that SUFA will actually undergo a real re-examination, much less a thorough one. Indeed, for the Agreement to be renewed the parties would merely need to hold a meeting, at the end of which the Agreement would be declared as having been “re-examined.” This would avoid the need to renegotiate the Agreement, a process that might prove difficult (not least for Ottawa) and cast doubt upon the supposed success of three years ago. Paradoxically, it can be argued that it is the very flaws in the Agreement — which will be discussed below — that make a genuine re-evaluation and subsequent improvements highly improbable. A real review and revision would be more plausible if SUFA rested on a stronger foundation.

Even if a genuine review did take place, it is even less likely now than it was in February 1999 that this process would lead Quebec to join in. In point of fact, SUFA is, in the sphere of intergovernmental relations, the most recent manifestation of a deep and longstanding impasse between Quebec and Canada. Because the problem is essentially political rather than technical in nature, the present analysis is also largely political. Indeed, one of the few things that stand out clearly in this muddled picture is that we will get nowhere by deluding ourselves about the true nature of the problem at hand. In this paper I shall seek to put some of these unavoidable truths in context.

That said, it is entirely possible in light of the Canadian federal system’s history of alternating periods of centralization and decentralization that the deterioration in Canada-Quebec relations, which we have witnessed for decades, will give way to a new phase in which the functional aspects of those relations will come to the fore. In this spirit, I will suggest a number of ways to break the current impasse and will identify areas of discourse that point to solutions which, although not in the cards now, might eventually become possible. I will examine the nature and evolution of Canada-Quebec relations over the past two decades and in particular highlight the opportunities as well as the inherent dangers that

have emerged more recently in the context of the social union. Finally, I will attempt to show that, independent of SUFA's serious flaws, Quebec cannot remain on the sidelines of Canadian intergovernmental relations in the field of social policy. After all, the fact that Quebec has not signed the Agreement does not mean that it is not part of Canada, that it is not a party to Canadian federalism or that it should not be involved in federalism as it is applied to social policy.

From Saskatoon to SUFA: The Third Round in the Canada-Quebec Impasse

After Quebec joined the provincial/territorial consensus at the Annual Premiers' Conference held in Saskatoon in August 1998, it seemed for a time that the social union debate might bring about a new beginning in Canada-Quebec relations.¹ This consensus on ways of cooperating with regard to the social union was in line with Quebec's view of Canadian federalism, especially with respect to its opting-out provisions. Until then, Quebec had chosen not to take part in the discussions initiated by the other provinces in the wake of the significant cuts in social spending announced by Ottawa in 1995, only attending the provincial-territorial meetings as an observer.

Those who are unfamiliar with Quebec, or who have forgotten why so many Quebecers who are attached to Canada have become sovereigntists over the last 30 years, might well ridicule the idea of Quebec signing an agreement on the basis of a provision allowing it to opt out of any arrangements made under the said agreement. Such a blinkered perspective misses the key point — the openness and goodwill that Quebecers have always shown towards Canada, as long as they felt that the vision that lies at the core of their membership in the federation was being respected. Indeed, Quebec's participation earlier in the SUFA process might have changed the dynamics of the discussions. Its representatives undoubtedly would have suggested to their counterparts that they thought more in terms of social federalism than in terms of a social union, making it easier for the provinces to find common ground. Moreover, Quebec constitutes not only the francophone pole of the Canadian duality, but it is also one of the country's main regions. Its participation could have served to bolster the regionalism that has spread throughout English-speaking Canada over the last 30 years, in Ontario as well as in other wealthy and powerful provinces like Alberta and British Columbia.

In any event, it should also be noted that the provincial-territorial consensus reached in Saskatoon was not limited to the right to opt out. The consensus

also dealt with different ways of managing interdependencies and promoting cooperation on social policy. Moreover, it recognized that the federal government plays an important role in social policy, even though the provinces should continue to be primarily responsible for core programs. Thus by joining the provincial-territorial consensus (albeit only because there was a clear-cut and broad-based right to opt out), Quebec implicitly accepted the implications of a Canadian social union, which meant it had adjusted its own position.

Unfortunately, in early February 1999 the provincial-territorial common front, which Quebec had joined after having made unprecedented concessions, fell apart in just a few hours.² It is true that in the months following Quebec's decision to join, the position of its premier, Lucien Bouchard, had considerably weakened. During the fall 1998 Quebec election campaign, Bouchard had stressed to voters the importance of granting him a strong mandate to negotiate on the issue of the social union following the Saskatoon consensus. The subsequent re-election of the Parti Québécois government with a plurality of seats in the National Assembly but with fewer votes than the Liberals significantly weakened Bouchard's hand, in relation to both his own party and his federal and provincial/territorial counterparts in the ensuing negotiations on the social union agreement.

Nevertheless, the political reversal that followed and led to the swift conclusion of an agreement (i.e., SUFA) between the federal government and the other provinces and territories constituted an abandonment of Quebec by its provincial partners. It was also a lost opportunity at a broader level. This event confirmed and further deepened the Canada-Quebec impasse, a situation that goes back to the repatriation of the Canadian Constitution in 1982 without Quebec's consent and exacerbated with the failure of the Meech Lake Accord in 1990.³

These three events — constitutional change in 1982, constitutional tinkering in 1987–90 and an administrative agreement in 1999 — are part of the same pattern, for they demonstrate the structural inability of the Canadian political system to incorporate part of its historical and geopolitical heartland with its own particular vision of federalism and of the country. The problem is that the rest of Canada has never truly recognized the legitimacy of Quebec's distinct vision of Canadian federalism, and the presence of a sovereigntist government now serves as an excuse for ignoring that vision. But the impasse is also due to a Quebec secessionist movement which refuses to engage seriously with Canada and which the rest of the country tends to identify with Quebec as a whole.

Beyond the substantive issues, the processes that led to all three agreements were also similar. In all three cases, interprovincial alliances that included Quebec eventually crumbled, with the "French province" finding itself isolated within Canada. The events leading to the signing of SUFA inevitably increased

Quebec's distrust of interprovincial alliances, a distrust that was already well ingrained following the failure of the Meech Lake Accord.

The SUFA episode, among others, also serves to demonstrate that the Canadian intergovernmental system has become significantly biased against Quebec and its particular concerns, which have become more marginalized than ever before in Canadian history.

Federalism and the Social Union

As one of 14 partners in intergovernmental discussions, it is very difficult for Quebec to defend or impose a vision that differs, in fundamental respects, from the one that tends to prevail in the rest of the country.

Canadian duality now exists only at a formal linguistic level and is no longer linked to the reality of Quebec. There is currently no desire to give real meaning to Quebec's distinct character; the concept of equality among the provinces has become a dogma, thwarting both the growth of Canadian regionalism and recognition of the Canadian duality. The fact that Quebec public opinion has over time grown more sympathetic to some form of independence for the province, which is seen in the rest of the country as a threat to Canada's very survival, has done nothing to improve this situation.

It is important to recall these things because the issue of "national unity," as it is called in the rest of Canada, clearly influenced the SUFA negotiations — although this is not openly acknowledged. It manifested itself in a deep distrust of Premier Bouchard, who was seen in the rest of Canada as an unparalleled negotiator prepared to play the Canadian intergovernmental game without renouncing his "separatist" ambitions. Also, the other regions of Canada, being more homogeneous than Quebec, aspire whether consciously or not to a more unitary regime. The principles of sovereignty and equality of each level of government in its own jurisdictions and the need for clear jurisdictional boundaries are often seen as less important than ensuring cooperation, dialogue and partnership between the two levels of government. From this perspective, a national, *senior* level of government should work in concert with a provincial, *junior* level, in jurisdictional areas that are becoming increasingly interwoven. The fact remains, however, that by signing SUFA the provinces gave up significant authority in social policy in exchange for Ottawa's promise to grant additional dollars for health care.

As for the federal government, one of its main goals in seeking a social union agreement was to counteract the forces threatening to rupture the country. It sought to reinforce Canadian identity and promote national unity by showing

Quebecers that Canadian federalism is capable of change. It is hard to imagine a more ill-suited approach to the problem. The federal government was making itself out to be a promoter of change even though the changes it proposed were the very opposite of what Quebecers wanted. Indeed, they weaken what is considered an absolute minimum for Quebec — the maintenance of a strong federal principle wherein each level of government is sovereign within its areas of jurisdiction.

Federalism is a system that provides for the *sharing* but also the *separation* of powers between two levels of government. The objective is to govern communities that are both similar and different, allowing them to live together in harmony. The very nature of the federal principle implies a fundamental degree of separation that has always been vital for Quebec. That is why federalism should not be confused, as it often is, with subsidiarity, partnership or decentralization. These concepts are undeniably important, but they apply as much to a unitary system of government as to a federal system. Federalism is based on cooperation, certainly, but also on a diversity of visions and communities. That is why Canada must maintain a strong federal principle if it is to keep Quebec in the fold.

Indeed it is largely because of Quebec that Canada is a federation. The government of Quebec, the only government in Canada to be controlled by a majority of francophones, has always been a greater advocate than the other provinces of a strong federal principle. On the other hand, it could also be argued that since the 1976 rise to power of the Parti Québécois through to the 1995 referendum, Quebec's de facto withdrawal from this system has contributed to a weakening of the federal principle in Canada.

In its most recent and misguided effort to deal with the Quebec question, Ottawa has failed to recognize the fact that an ill-conceived social union that was artificially agreed upon in an effort to thwart the "separatists," far from solving the problem, would only make matters worse. In the long run, the real problem is not the existence of Quebec sovereigntists per se, but the corrosive effects of Quebec's poor integration within Canada. This situation can only be exacerbated by defining a social union that does not take into account Quebec's distinct vision of federalism. Indeed, a parallel can be drawn between this situation and the 1982 enshrinement of the Canadian Charter of Rights and Freedoms, a process that cast aside Quebec's specificity and consent and thus caused a rift between Quebecers and other Canadians even though they basically share the same values.

Furthermore, an artificial social union agreement alienates not only Quebec but also other regions, particularly the West, which do not entirely share Ottawa's vision in social policy. As will be seen below, however, positive developments may well result from this situation.

The Social Union Framework Agreement

Beyond the political obstacles, both old and new, what are the likely consequences of the framework agreement itself for Quebec and the rest of Canada?

To begin with, SUFA's mobility provisions certainly appear incompatible with the maintenance of a strong federal principle. By definition the existence of two levels of government, each sovereign within its own jurisdictions, implies that either level government may at times choose to exercise its powers in its own way. There is a growing tendency, however, to consider every difference an unacceptable barrier to the mobility of citizens, a disparity that must be corrected to conform to a pan-Canadian standard. Over and above the laudable objective of eliminating unnecessary barriers, SUFA's provisions on mobility would have the effect of creating an unrealistic number of all-encompassing commitments, in addition to affecting many programs in which there are significant differences between Quebec and the other provinces. As Claude Ryan aptly put it: "I also doubt that, in the areas directly linked to its distinct character, Quebec will be willing to cede to an outside authority its constitutional jurisdiction in education, health and social services."⁴

As for the rest of the Agreement, it is a typical product of old-style executive federalism with its emphasis on technical and bureaucratic aspects.⁵ It focuses on improving intergovernmental processes, not on questions of substance; it relates to issues that are usually discussed behind closed doors and neither concern directly nor interest the public. Thus the Agreement's aim "to ensure effective mechanisms for Canadians to participate in developing social priorities and reviewing outcomes" borders on the surreal.⁶ More generally, this also makes it difficult to ascertain what has really happened over the past three years at the intergovernmental level regarding the social union.

Even from a federalist perspective, for Quebec to endorse the Agreement would have been a fundamental and damaging political about-face, as the Quebec Liberal leader, Jean Charest, who was originally in favour of such an agreement, admitted regretfully. This was also the view of a number of experts, including former advisor to the Trudeau and Mulroney governments, André Burelle, who concluded that SUFA amounted to putting the provinces under trusteeship.⁷

Even leaving aside the Quebec issue, SUFA has significant shortcomings. It is certainly not the major historical development for Canada that many had hoped it would be. Paradoxically, these shortcomings have been best described by Harvey Lazar, a well-known expert on intergovernmental relations and one of the Agreement's main advocates.⁸

Lazar highlights the many contradictions that lie at the heart of SUFA. These include disputes over the interpretation of the Agreement, its degree of formality, the implications of the provisions for citizen participation and intergovernmental cooperation, and the vision of Canada's future as implied in the Agreement — in short, disagreements over the very essence of the Agreement. It is evident that these problems go well beyond the normal tensions and contradictions inherent in any political agreement, especially when one considers the fact that some of the SUFA signatories (Premiers Klein and Harris come to mind) were elected on an ideologically right-wing platform that is very different from the values promoted by Ottawa in social policy.

In fact, the contradictions are so deep and fundamental that one might legitimately ask whether an agreement exists at all, and on what exactly. What is clear, on the other hand, is *why* there was an agreement. Two circumstantial but powerful factors came into play: the urgent need for the provinces to obtain additional health-care funds from Ottawa, and a Canadian nationalist reaction against the "separatist" Quebec government. But the more one thinks about it, the more the Agreement appears to be short-sighted, incomplete, and riddled with contradictions and flaws.

SUFA is weighted in Ottawa's favour and, as currently written, does not significantly constrain the federal government's ability to intervene in social policy, even though this was what the provinces intended when they initiated the SUFA process. Considering that the new political climate which has emerged in some regions of the country, particularly the West, is undermining the political foundations of the Agreement in those regions, it comes as a relief that SUFA is only an administrative document, with no legal clout, and that Quebec did not sign it.

Canada-Quebec Relations in a State of Flux

It should be pointed out at the outset that there is nothing in the events that have occurred since 1999 to suggest that Quebec was mistaken in its decision not to take part in SUFA. In fact, three years later, it is more apparent than ever that this was the only option for Quebec. The situation was difficult enough after the signing of SUFA, when Quebec was abandoned by the other provinces for a third consecutive time, but it has deteriorated even more over the past year as a result of two major political developments, the first in Ottawa and the second in Quebec City. However, there may be a ray of hope on the horizon.

The first development, in Ottawa, was the triumphant re-election in November 2000 of Jean Chrétien's Liberal government, with a majority of the

votes in Quebec.⁹ The Liberal victory has reinforced the federal government's hard stance on the Quebec issue and a tendency to consider the case closed. The fact that the Liberal Party of Canada received more votes in Quebec than the Bloc Québécois, two years after the Liberal Party of Quebec won more votes than the Parti Québécois in the Quebec election, is widely seen in Ottawa as a vindication of the Chrétien government's policies and attitudes towards Quebec, on the issue of the social union as well as others. That said, Prime Minister Chrétien, viewed by some as the national political figure who represents the greatest obstacle to the normalization of relations between Canada and Quebec, may be serving his last mandate and should be leaving the stage in the next two to three years.

The second development, in Quebec City, was the sudden and unexpected resignation in January 2001 of Premier Lucien Bouchard, which also helped pave the way for a potential changing of the guard in terms of political actors historically linked to the Canada-Quebec impasse. The immediate effect, however, was to harden the discourse of the Parti Québécois government. Indeed, the PQ has reverted to a more hard-line sovereigntist position under the leadership of Premier Bernard Landry, who made it clear that he intended to adopt a more active stance in promoting Quebec sovereignty.

However, Premier Landry may prove to be another example of the "Nixon effect."¹⁰ After an initial return to his sovereigntist roots, Bernard Landry the realist might come to play the Canadian federalism game more effectively than his Péquiste predecessors in a context where the achievement of Quebec sovereignty becomes very unlikely.

In the fall of 2000, Quebec's Minister of Intergovernmental Relations, Joseph Facal, had stated that the social union and fiscal imbalance were the two most important intergovernmental issues facing Quebec. Facal's reappointment to his portfolio in the new Landry government, on March 9, 2001, suggested that there would be little change in these priorities. This was confirmed a few months later when Premier Landry announced the creation of a task force to study the issue of fiscal imbalance between the two levels of government. The task force, headed by Yves Séguin, a former Liberal cabinet minister, is expected to release its report in February 2002.

Quebec's desire to participate actively was also evident at the Annual Premiers' Conference in Victoria on August 3, 2001. The issue of fiscal imbalance was among the main topics on the agenda under the sponsorship of Ontario Premier Mike Harris. Premier Harris' position received support from a surprisingly outspoken Premier Bernard Lord of New Brunswick, a province that is usually more likely to side with the federal government. At the conference, Premier Landry argued in favour of a transfer of tax points to ensure a permanent source

of revenues to meet increasing provincial health-care needs, and the other premiers agreed to explore this option. Since then, the very existence of a fiscal imbalance has been strongly contested by the federal government, specifically by three senior ministers — Paul Martin, Allan Rock and Stéphane Dion. (It is revealing that no mention of SUFA was made at the premiers' conference, even though a major subject clearly linked to the Agreement — the financing of health care in Canada — was the main topic of discussion.)

It is also the case that the resignation of the charismatic Lucien Bouchard as premier of Quebec has greatly increased the possibility of Jean Charest's Liberals taking over the reins of power within two years. This outcome will be even more likely if Premier Landry is unable to accept what promises to be a failure of his sovereigntist offensive. Although a change of government would immediately boost Quebec's credibility in intergovernmental relations, it would not automatically resolve the Canada-Quebec problem, which, after all, is not a sovereigntist invention. In other words, although the current political landscape is not at all conducive to a break in the impasse, this situation is likely to change rather quickly — but that in itself will not solve the basic problem.

One further political development that appears to be negative for the West but could perhaps have positive repercussions in terms of Canada-Quebec relations is also an outcome of the last federal election. The election revealed the inability of the Canadian Alliance to win significant support east of Manitoba. The party was clearly unable to present itself as a credible alternative to the reigning Liberal Party. Over the past year, the disarray within the Canadian Alliance and the forced resignation of its new leader, Stockwell Day, combined with the unlikely prospects of reorganizing the Canadian right under Joe Clark's Progressive Conservative Party, has for all intents and purposes put the country under a one-party Liberal regime.¹¹

One may recall that it was the creation, a decade ago, of a sovereigntist party at the federal level that initiated this whole process. Following the failure of the Meech Lake Accord in 1990, Lucien Bouchard, then a federal Conservative cabinet minister, immediately created the Bloc Québécois, whose very existence was seen as a threat in the rest of the country. This, in turn, fuelled the rise of another regional party — this time in the West — the Reform Party, later to become the Canadian Alliance.¹² A dozen years on, we find ourselves with a one-party regime in Ottawa: the Liberals are the only party capable of winning power, a situation that has unhealthy consequences from every point of view. Once a governing party is no longer worried about losing the next election, the prime minister's powers — already substantial in a Westminster-style government like Canada's — become virtually unlimited.

So far, Bloc Québécois Members of Parliament have kept out of the political process that was triggered by the creation of their party. This inertia on the part of sovereigntists sitting in the House of Commons is all the more regrettable because such a historic opportunity may not present itself for some time, resulting as it does from a deepening of Western alienation. This alienation certainly has its own specific causes and dynamics, but it could be argued that it has been accentuated as a result of a failure to integrate Quebec and Quebec nationalism into the political life of Canada.

The provincialism in which the rest of Canada has managed to imprison itself in order to avoid recognizing Quebec's distinct character has, in some respects, backfired.¹³ It has made Canadian political culture excessively provincial, in the strict sense of the word, while at the same time preventing the institutional and political expression of Atlantic and Western Canadian regionalism.

During the hearings of the Pepin-Robarts Commission in the late 1970s, regional alienation, particularly in Western Canada, emerged as one of Canada's two main political problems, the other being the Quebec question. Prime Minister Pierre Trudeau eventually shelved the commission's report, but twenty-five years later the sense of alienation in the West is deeper than ever. For instance, instead of pursuing efforts to achieve greater political power at a national level through Senate reform or a federal government dominated by the Canadian Alliance, a number of credible representatives from the West are now advocating a very different approach which consists of building strong provincial powers, particularly in Alberta and British Columbia. Public figures from Alberta have even suggested as a model the Quebec of the Quiet Revolution, with its theme of *maîtres chez nous* (masters in our own house), its Caisse de dépôt (deposit and investment fund) and its Régie des rentes (pension board).¹⁴

Perhaps we are witnessing a return to the convergence of Quebec-Western interests that provided Brian Mulroney's Conservative government two strong political mandates between 1984 and 1993, allowing him to conclude a free-trade agreement with the United States and to almost succeed at reintegrating Quebec into the Canadian Constitution through the Meech Lake Accord. However, there is an element that is fundamentally new and positive in the present context, particularly in Alberta, where the environment is increasingly favourable to the right to opt out, a stance that is similar to Quebec's traditional position. Ralph Klein's return to the Alberta legislature on March 12, 2001, for a third mandate as premier, has certainly not hampered this movement. This could increase the potential for greater constitutional asymmetry applied to Quebec and other large provinces.¹⁵

Finally, recent changes in the political leadership in a number of other provinces should also be noted: Lorne Calvert became premier of Saskatchewan in

January 2001, followed by Liberal Roger Grimes in Newfoundland in February and Liberal Gordon Campbell in British Columbia in June. Some of the consequences of these changes could already be seen at the 2001 Annual Premiers' Conference, such as the support of the new premier of British Columbia for the position of Ontario's Mike Harris on fiscal imbalance. The premier of Alberta remains at the head of a Conservative government that has chosen a different path from the traditional Canadian social democracy, which Ottawa promotes in the field of social policy. However, the departure of Mike Harris, announced in October 2001, will perhaps pave the way for a renewed role of the state and public administration in that province. This would be a welcome turn of events given that Quebec is always affected by what happens in Ontario and such a change could eventually serve to narrow the gap in the vision and values of these two neighbouring provinces.

Intergovernmental Developments Since the Signing of SUFA

It is difficult to identify, let alone properly assess, the developments that have taken place at the Canadian intergovernmental level since the signing of SUFA. Nevertheless, a number of points are worth noting. First, the Ministerial Council on Social Policy Renewal, the body responsible for implementing the Agreement, has made virtually no progress on a number of issues of particular interest to the provinces, such as the mechanisms for avoiding and resolving disputes; and the monitoring and evaluation of the Agreement. The Ministerial Council has met only three times since SUFA was signed and, tellingly, has not met at all since the signing of the Health Accord in September 2000.

It should also be noted that SUFA was not mentioned once in Premier Gordon Campbell's five-page letter of August 30, 2001 to Prime Minister Chrétien in which he reported on the results of the Annual Premiers' Conference. Yet the letter makes a number of references to the First Ministers' Meeting held in September 2000, including a query about how Ottawa planned to follow up on its agreement to develop, in conjunction with the provinces, a mechanism for resolving disputes in the health-care field. On that subject, the federal Minister of Health, Allan Rock, responded unequivocally that Ottawa did not intend in any way to abandon all or any of its exclusive powers to interpret and apply the *Canada Health Act*.¹⁶

It will be recalled that at the First Ministers' Meeting of September 2000 the alliance between the premiers of Canada's two largest provinces, Quebec and Ontario, scored a political victory, effectively forcing Ottawa's hand in amending

the conditions to be attached to the transfer of additional health-care funds. This showed that, despite the new political and constitutional context created by, among other things, the *Constitution Act, 1982*, Canadian geopolitics are still influenced by the “old” Canada, in that it is difficult to impose anything on the former Upper and Lower Canadas when they join forces to oppose it.

Ultimately, the impact of SUFA has been more noticeable in the sectoral-level forums such as the Meeting of Ministers of Social Services and in sectoral initiatives such as the Health Action Plan (the Health Accord) and the Agreement on Early Childhood Development, which resulted from the First Ministers’ meeting on September 11, 2000. Strengthened by a framework agreement that gives it a new legitimacy in social policy matters, especially through the clear and unprecedented recognition of its spending power, Ottawa now appears to attach less importance to the work of the Ministerial Council on Social Policy Renewal than to the sectoral-level forums. This could have something to do with the fact that the Council membership includes representatives of the central agencies, who are more likely than representatives of their respective provincial departments to want to reconsider some of the concessions made by the provinces.

Thus, when it is not taking unilateral action, the federal government seems to rely on the sectoral-level forums made up of provincial ministers and technocrats. The latter are more inclined to accept Ottawa’s leadership in social policy, as was the case during the era of cooperative federalism and shared-cost programs that ran from the beginning of the post-war period to the mid-1960s. Ottawa’s ultimate aim appears to be to establish a uniform accountability framework from coast to coast and to harmonize evaluation standards. Nevertheless, some of the representatives of the large provinces in the sectoral-level forums often try to dampen Ottawa’s zeal, either because they do not agree completely with the federal government or because they distrust it.

Prospects for the Future

There is reason to be uneasy about the ongoing negative effects on Canadian politics of Quebec’s non-participation in the 1982 Constitution and, more recently, the Canadian Social Union Framework Agreement. Indeed, the fact that Quebec is politically poorly integrated into Canada prevents Canadian democracy from functioning effectively. The results of the fall 2000 federal election are the most recent demonstration of this. It also has pernicious effects on the intergovernmental system as a whole, as witnessed by the hasty and artificial way in which SUFA was concluded.

Nevertheless, given that the main problem of the Canadian political system in regards to Quebec is its systematic refusal to recognize its distinct character, the province's non-participation in SUFA — besides being defensible and legitimate from a federalist point of view — could lead paradoxically to greater openness on this fundamental issue in the rest of the country. Not only does the Agreement run counter to the interests of some provinces, but Quebec's non-participation clearly renders it deficient as a framework from which to chart a renewed national project.¹⁷

Claude Ryan has identified three possible ways of solving this problem, which can be summarized as follows: greater decentralization of powers to the provinces, similar to what is being proposed by the Canadian Alliance; a return to a more classic type of federalism (recommended by, among others, André Burelle) centred on clear and rigorous respect for the respective jurisdictions of each level of government and on joint decision-making in matters of common interest; and, finally, clear and effective recognition of the distinct character of Quebec.¹⁸ I have also focused on the latter two approaches — strengthening of the federal principle and affirmation of Quebec as a robust, distinct society within Canada — in a recent analysis.¹⁹

It must be admitted that all of these avenues appear to be blocked at present, and it is highly unlikely that any of them could be seriously considered in the context of the SUFA review. However, as I have pointed out, circumstances may well change and it is important to be prepared for such an eventuality.

Paradoxically, Quebec's refusal to sign an administrative agreement that neither binds it constitutionally nor politically affords it more power and room to manoeuvre than did its decision not to ratify the *Constitution Act, 1982*, which nevertheless applies in every respect to *la belle province*. However, Quebec will only continue to enjoy this advantage if it adopts a more proactive approach to Canadian intergovernmental relations in the field of social policy.

Quebec's dynamic and innovative approach to social policy in recent decades gives it more than enough credibility to defend its views in an effective manner in intergovernmental forums.²⁰ In this regard the present circumstances are fundamentally different from those of the 1945–60 period, when Quebec complained about Ottawa's incursions into its areas of jurisdiction but did not have the wherewithal to act.

That said, Quebec needs to adapt its traditional constitutional position to better reflect the needs of the distinct society that it has become at the beginning of the 21st century. In particular, it must acknowledge the fact that constitutional jurisdictions are not self-contained as they once were. Indeed, even though Quebec's vision of federalism remains relevant, it has become outdated in some

respects. For instance, its steadfast opposition, on principle, to any federal involvement in provincial areas of jurisdiction ignores the reality of the last 50 years, a period during which the federal spending power has been used in Quebec with sometimes positive consequences for its citizens — an example is the housing provided by the Canada Mortgage and Housing Corporation in the post-war years; of course, had the Meech Lake Accord been accepted, Quebec would have been more willing to acknowledge this reality.

However, Quebec should be careful not to become party to SUFA until it obtains a clear right to opt out with financial compensation, a *sine qua non* for its ability to interact effectively with the rest of Canada. This recommendation is particularly addressed to any future Liberal government that might be tempted to sign the Agreement without obtaining the necessary concessions. Ultimately, this would only make the problem worse.

The Quebec Liberals' most recent position on SUFA is presented in detail in the final report of the Special Committee of the Quebec Liberal Party on the Political and Constitutional Future of Quebec Society. The Agreement is deemed unclear and deficient in many respects, in particular with regard to the length of notice before the implementation of new federal pan-Canadian programs and the method of consulting with the provinces about these; the limits on the federal spending power in terms of direct, unilateral federal payments to individuals and organizations as well as transfers to the provinces; the mobility provisions; redress mechanisms for citizens; the respective roles and responsibilities of the federal and provincial governments in the sectors covered by the Agreement; and the method for preventing and settling disputes. As for the measures that are most problematic from Quebec's point of view — public accountability, evaluation of the provinces, identification of best practices and the development of comparable indicators for measuring results — the Liberals suggest that the SUFA provisions seem promising but that it might be worthwhile referring to the wording used in the September 2000 Health Accord. The overall assessment is that "it should be up to the provinces to agree on mechanisms for developing the necessary convergence in areas of provincial jurisdiction."²¹

The tone of the report, which concludes that the issue of the Canadian social union is evolving and that "the Agreement still needs to be tried and improved," seems overly optimistic about the future of SUFA, notwithstanding the Quebec issue. As for the latter, it would be naïve to think that Quebec's refusal to sign the Agreement was simply due to easily-resolved technical issues such as the design of an appropriate opting-out formula. In fact everything suggests that the federal refusal to allow Quebec the right to opt out is rooted in the longstanding impasse between Quebec and Canada.

In terms of broader strategy, it is important to recognize the links between the two principal structural problems facing Canada: Quebec nationalism and Western alienation.²² For Quebec in particular, the experience of three consecutive failures to achieve broad interprovincial consensus, as well as the success of its alliance with Ontario in September 2000, should teach it to rely on circumstantial and temporary alliances with one or more provinces that have the means and motivation to oppose Ottawa's centralizing aims.

Naturally, the larger provinces of Ontario, Alberta and British Columbia immediately spring to mind. Quebec should take advantage of Western Canada's current focus on provincial autonomy as an opportunity to promote asymmetrical federalism as a potential solution to both the Quebec problem and Western alienation. On the other hand, the impressive performance of the New Brunswick premier on the subject of fiscal imbalance at the August 2001 Premiers' Conference in Victoria is a reminder that Quebec should not *a priori* exclude any province. Indeed, the social union issue serves to illustrate the complexity of the relationship between Quebec and the rest of Canada. Although the convergence of interests between Quebec and a region like the West is evident and appears to have great potential, important differences remain. For example, the Quebec government continues to espouse an essentially social-democratic orientation that garners wider support in Quebec than in the rest of Canada. Thus Quebecers are less interested perhaps than Albertans or Ontarians in having the federal government's social-democratic vision act as a counterweight in the social policy field. Differences in provincial wealth and resources are also a factor. In terms of per capita wealth, Quebec ranks somewhere in the middle, between the small Atlantic provinces, which are financially heavily dependent on Ottawa, and the large, wealthy provinces west of the Ottawa River. It is in Quebec's interest to have Ottawa maintain its role in the redistribution of Canada's wealth and as such it cannot support the demand to allocate federal social transfers purely on a per capita basis. The support of the small provinces may therefore be useful to Quebec, since, like them, it receives significant sums from the federal government. The key is for Quebec to be present, flexible and dynamic, but not to harbour any illusions about how solid alliances are.

Although alliances may be necessary, they can never resolve all of Quebec's problems. Quebec is an entity in itself and must be able to go its own way from time to time without this being seen as an aberration or as a sign of disloyalty to Canada.

In this spirit, it is important that governments and the public come to recognize that the Canadian intergovernmental system has become structurally biased against Quebec and its particular concerns. This bias is amply demonstrat-

ed by the fact that an intergovernmental agreement can be considered valid even though it has not been signed by the only province with a francophone majority.

The basic idea is to remind Canadians that Quebec has a distinct vision of Canada, one that is still relevant. As has been pointed out, this does not preclude the need for Quebec to adapt to a new context where constitutional jurisdictions are not as clearly delimited as they once were. On the other hand, Quebec's specificity has not prevented it from harmonizing its policies with those of the other provinces. But it must be understood, nonetheless, that Canada's abandonment of a strong federal principle, combined with its refusal to recognize the true implications of Quebec's distinct character, can only result in a continuing deterioration of the Quebec problem, with negative consequences for the entire country.

Quebec, for its part, should express its willingness to cooperate in good faith with the other provinces and the federal government on social policy matters as long as mechanisms can be put in place to take into account its distinct character in this field, thus following up on the Calgary Declaration and the December 1995 federal motion on the distinct society. The other provinces should have recognized, for example, that Quebec's desire to opt out of the Millennium Scholarship Fund was based on its specific needs in education matters, and should have supported its request to withdraw from this program.²³

Finally, the question of fiscal imbalance that was raised at the Premiers' Conference in August 2001 is a key issue that should be kept on the agenda. The increasing imbalance between Ottawa's revenue sources and its constitutional responsibilities relative to that of the provinces needs to be addressed as it ultimately works against the maintenance of a strong federal principle in Canada.

Conclusion

Since the 1995 Quebec referendum, there has been a tendency within the Canadian political and intergovernmental system to ignore and even deny, despite all evidence to the contrary, that there even is a problem between Quebec and the rest of Canada. This tendency to hide one's head in the sand, which seems to have become the norm in Ottawa power circles and among the English-speaking intellectual elites, is of great concern for the future of the country. Indeed, without a problem there is no need for a solution. More fundamentally, such a mindset prevents us from turning the energy inherent in facing any problem towards finding a solution while there is still time.

Canadians must come to realize that there is something fundamentally wrong with a political process which is incapable of dealing with the concerns of

all the consecutive governments of the only province with a francophone majority, home to the founding people (in terms of the construction of the Canadian identity) and a quarter of the Canadian population. The increasingly evident alienation of Quebec's francophone majority within Canada remains the greatest problem facing the country and one that should be uppermost in the minds of both citizens and political leaders.

Even among those who do believe there is a Canada-Quebec problem, the objective no longer seems to be the historical reconciliation of Quebec with the rest of Canada but, rather, the total defeat of the "separatists," who are, such people are convinced, the country's only real problem. According to this analysis, francophones who voted overwhelmingly "Yes" in the 1995 referendum simply did not know what they were doing. This fairy-tale view of the world is the mirror image of unrealistic sovereigntist ideology. Such federalist illusions do not take Canada's or Quebec's reality into consideration. They do not reflect an understanding of the Quebec fact, a national phenomenon that is firmly rooted in the history of Canada and thus one that will not disappear simply because it cannot be expressed positively. Nations do not wither away in this manner, certainly not in an era of globalization marked by stronger local and national identities. An iron law of human history is that the greater the effort to deny the existence of a nation, the more this gives rise to negative expressions of nationalism.

It is crucial that Canadians be better informed on these matters. The fact is that a sense of alienation as deeply felt and as well-documented as that of the francophone majority in Quebec will not simply disappear with the defeat of the sovereigntists, but will instead destroy the country from within. As is the case for other national identities, for Quebec society to remain an open society it requires that certain points of reference that are specific to it be respected. One such point is the clear predominance of French without excluding English. To reiterate, the ongoing deterioration of Canada-Quebec relations has increasingly negative effects on the entire country and constitutes a greater danger today than Quebec separation. As sovereignty becomes less a functional political project than an unrealizable dream, and as the problems and frustrations related to Canada-Quebec tensions increase without any prospect of solution, there is a risk that some individuals could get out of control. Every effort must be made so that the situation of Quebec within Canada does not become another Ireland.²⁴

One step in the right direction would be to confront the problem head-on — even if there is no immediate solution — instead of continuing to systematically ignore it. SUFA is useful in this respect precisely because it is such a clear manifestation of the Quebec-Canada impasse, and therefore serves to highlight a problem in a system that denies its very existence.

However, SUFA no longer has the historical importance once attributed to it. And it will have even less importance in the future if Quebec decides to become actively involved on the intergovernmental scene. The Health Accord might be a good starting point for discussion in this regard. It has been approved by both the premier of Quebec and the leader of the Quebec Liberal Party, on the premise that it is up to the provinces to agree on mechanisms for convergence in areas of provincial jurisdiction. There is some indication that Quebec might be able to see to it that SUFA falls to the wayside, even if it is not formally abolished.

Quebec is different from other provinces and as long as it is not recognized and treated as such, Quebec society will have a greater tendency to keep its distance and try to withdraw from Canada — that is what it requires in order to participate fully and positively in the Canadian enterprise. It is only as a strong distinct society that Quebec will be able to participate effectively in strengthening the Canadian social union and share its own dynamism with the rest of the country.

- 1 In this regard, I should note that in early June 1998 I was asked by the Secrétariat aux Affaires intergouvernementales canadiennes du Québec to write a report “on the proposed Social Union in relation to Quebec’s view of Canadian federalism.” In that report, I analyzed, among other things, the potentially positive consequences of Quebec’s joining the inter-provincial consensus and recommended that it do so. See Dufour (1998).
- 2 See Noël (2000, p. 9).
- 3 The content of this agreement, which was entirely reasonable in the Canadian context, had been reached under ideal conditions: the Quebec government of the time was federalist, the federal government was willing to recognize Quebec’s distinct character and it was a period of prosperity that fostered a spirit of generosity and openness.
- 4 Ryan (2000, p. 209). On the subject of mobility, see also the study by Frémont (2000).
- 5 “Executive federalism” refers to the specifically Canadian system of federal-provincial and interprovincial agreements and conferences, at all levels and in most fields, which has become an important arena of power in Canada.
- 6 On this subject, see the thoughtful analysis by Phillips (2001). Phillips is sceptical about the effect of the Agreement’s provisions on citizen participation and whether they will be implemented, noting that their success depends largely on federal grants to citizens’ groups whose concerns are by definition more likely to resemble those of Ottawa than of the provinces. Roger Gibbins (2001) writes even more pointedly of the decisive victory of intergovernmentalism over populism.
- 7 Burelle (1999); See also Gagnon (2000), Noël (2000), Frémont (2000), Binette (2000) and Ryan (2000).
- 8 See Lazar (2000a) and Lazar (2000b).
- 9 However, the sovereigntist Bloc Québécois again won the majority of votes among francophone Quebecers.
- 10 It took someone as far to the right as Richard Nixon, with his die-hard anti-communist beliefs, to be the first American president to visit Red China.
- 11 According to Massicotte (2001), given the current alignment of political parties, the Canadian electoral system prevents changes from taking place at the federal level; the system undermines Canadian unity by accentuating regional variations in party representation, leaving the impression that the country is more polarized than it is. Massicotte argues that an electoral system based on proportional representation would have more advantages than drawbacks, but concludes that such a change appears unlikely in the foreseeable future.
- 12 The Reform Party was formed just prior to the Bloc Québécois. However, the BQ’s success was such that it quickly acquired the status of Official Opposition, to the indignation of many English-speaking Canadians. This gave further impetus to the Reform Party to become a national party.
- 13 Dufour (1990).
- 14 See Harper et al. “Open Letter to Ralph Klein” (2001). Political scientist Roger Gibbins (2001) provides a revealing analysis of this new dynamic and the fact that it undermines SUFA’s political foundations in the West.
- 15 See also Spector (2001).
- 16 “Rock Rules Out Independent Medicare Referee” (2001).
- 17 This emerged from several of the papers presented at the conference “Perspectives and Directions: The Social Union Framework Agreement,” organized by the Saskatchewan Institute of Public Policy at the University of Regina on February 3-4, 2000.
- 18 Ryan (2000).

- 19 Dufour (2000).
- 20 Quebec's dynamism in the social policy field is well documented. See, for example, Noël (1997, p. 241) and Vaillancourt (2002).
- 21 Quebec Liberal Party (2001, pp. 87-91).
- 22 Aboriginal and multicultural issues are not structural in the sense used in the Pepin-Robarts Report.
- 23 It was essentially to avoid penalizing Quebec students that the province finally reached an agreement with Ottawa. Quebec now has to live with an agreement that does nothing to solve the underlying problem.
- 24 On this subject, see Dufour (1998) and Dufour (2000, pp. 76-79).

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