Open Federalism: A Balancing Act of Multiculturalist Concerns and Fiscal Imbalances

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In today's political economy, federalism plays a vital role in the function of Canadian politics and governance. Canadian federalism is a system of government that divides the legislative responsibilities of government between national and sub-national jurisdictions in accordance with the Canadian constitution.¹ Although limited throughout the world, federal states are unique in their multilevel governance approach, which allows for more active citizenship, and opportunities throughout the state. In recent years, prior to the 2006 election win of the Conservative Party of Canada, Stephen Harper proposed a unique approach to federalism, which he regarded as open federalism. Harper's decentralized approach to federalism was very persuasive in the beginning stages of its development because of the opportunities it proposed: however, a more thorough analysis of Harper's model suggests many errors in its application, including the extensive objectives it involves. Ultimately, the structure and components of Canadian federalism are based on the current prime minister's interpretation of federalism. Therefore, with regards to Harper's open federalism, it can be suggested that the intentions of the model may be too broad, which leads to asymmetrical relations with specific areas of the nation and repression of minority cultures. This idea will be emphasized by a thorough analysis of Harper's approach to federalism, including the critiques of several scholars, the model's effectiveness at solving contemporary federalist issues, and contrasting Harper's model

with the approaches of past prime ministers and current party leaders. Ultimately, this paper will argue that although each ideological approach to federalism has its weaknesses, the government of Justin Trudeau or Thomas Mulcair may represent a more effective method to solving contemporary challenges of today's federal society.

Open federalism is a system that is designed to restore the roots of classical federalism, which empowers a strong central government to focus on national economic priorities and defense, while respecting the jurisdictional responsibilities of the sub-units.² This otherwise decentralized approach to federalism derives from many ideas that serve as a basis for the model, including restrictions on the federal government's spending power and solving fiscal imbalances of the nation.³ Of these factors, a prominent objective of the system is to establish new ideas that address the unique situation of Québec, with the hopes of reinforcing its position in Canadian politics.⁴ Another significant aspect of the model is to remain traditional but open to new ideas regarding multiculturalism and its significance and the introduction of "...alternatives to the status quo."⁵ Harper proposes that, together, these features will help the country advance as a sole body through multicultural practices and coordination between the federal government and sub-units. To exemplify this idea, Harper uses the Belgium model, which represents

¹ Gregory Inwood, *Understanding Canadian Federalism: An Introduction to Theory and Practice* (Toronto: Pearson Canada, 2013), 7-8.

² Stephen Harper, "My Plan for 'Open Federalism'," *National Post* (2004): 1.

³ Adam Harmes, "The Political Economy of Open Federalism," *Canadian Journal of Political Science* 40, no. 2 (2007):422, <http://www.jstor.org/stable/25166105>.

⁴ Harper, "My Plan," 1.

⁵ Ibid.

a system that recognizes both the cultural groups of the Flemish and French along with geographical regions.⁶ According to Harper, this model would allow for both the cultural groups and regions of Canada to sustain formal government structures over their own affairs and serve as an alternative to debates and recurrence within the system.⁷

Ultimately, the concept of open federalism is rejected by political parties such as the Liberals and Bloc Québécois, which Harper deems as “...stuck in tradition” and as repetitions of old, drawn out arguments.⁸ Despite this opposition to the model, Harper suggests that in order for the nation to advance, a systematic application of democratic and institutional reform is required throughout all of Canada. Therefore, until reform happens, the nation will be susceptible to traditional debates of federalism and governance, and not progress as Harper intends.⁹ In regards to actions of former prime ministers, such as Brian Mulroney’s failed implementation of the Meech Lake Accord, sticking to traditional division of Canadian federalism may be a viable solution to maintaining a stable federal system.

Along with political party opposition, many scholars have published their own interpretation of Harper’s proposal for redefining federalism. Of these scholars, Jean-Francois Caron and Guy Laforest propose a critical analysis of Harper’s model. The scholarly pair argues that Harper’s open approach to federalism is similar to that of Trudeau’s monist form of government, which utilizes a strong central government.¹⁰ Furthermore, they discuss that in reaching out specifically to Québec’s interests, an intent of multinationalism is implied, but when thoroughly observed, a unilateral approach to federalism is

still present.¹¹ Together, Caron and Laforest’s proposals emphasize the idea that Harper’s broad intentions of multiculturalism and classical federalism lose their legitimacy when pursued together. Additionally, Caron and Laforest propose that Harper’s speech in Québec City and the proposal for the establishment of an independent role for Québec in UNESCO also promote the idea of multinationalism, but realistically serve as an ulterior motive for the Conservative Party to regain the respect of Québec.¹² Evidently, this represents an asymmetrical approach to Québec with little attention paid to the other provinces, despite the united and cooperative promises of Harper’s model. Furthermore, Caron and Laforest propose that Harper’s approach to federalism represents a symbolic interpretation of multinationalism that has evolved from collaborative federalism but “...is not revolutionary” or even genuine.¹³ Therefore, it can be suggested that the motive behind Harper’s open approach to federalism is broad but ultimately seeks only Québec’s support.

Another scholarly critique of Harper’s proposal for open federalism is that of Western University professor Adam Harmes. Harmes begins his analysis of the model by weighing the objectives that Harper plans to achieve. Through a systematic analysis of the model, Harmes concludes that although the backbone of Harper’s open federalism is to fix the fiscal imbalance and stabilize the economy, the model may be more appealing to Bay Street Conservatives, rather than the unions and activists who need the support.¹⁴ To support this claim, Harmes denotes that Harper’s plan for institutional reforms is nothing more than an opportunity to develop privatized market policies, which represents a neoliberal approach to federalism, rather than an open one.¹⁵ Furthermore, this emphasizes the idea that Harper’s intentions may

⁶ Ibid., 2.

⁷ Ibid.

⁸ Ibid., 1.

⁹ Ibid., 2.

¹⁰ Guy Laforest, and Jean-Francois Caron, “Canada and Multinational Federalism: From the Spirit of 1982 to Stephen Harper’s Open Federalism,” *Nationalism and Ethnic Politics* 15, no. 1 (2009): 27, DOI: 10.1080/13537110802672370.

¹¹ Ibid., 30.

¹² Ibid., 44-5.

¹³ Ibid., 45-6.

¹⁴ Harmes, “The Political Economy,” 418.

¹⁵ Ibid., 433.

lie with the central government too strictly at the cost of the sub-units that require economic policies to conquer fiscal imbalances at the provincial level. Similar to Harmes, Thomas J. Courchene regards Harper's federalism model as nothing but a "...market-preserving model".¹⁶ This idea is emphasized by the party's intent to direct the federal government's spending power to the national and international concerns of the economy and defense¹⁷. Therefore, Harper's plan to stabilize the economy comes at the expense of cooperation with the provinces, which represents symmetry at the federal level and little attention to the sub-units.

Together, the critiques of Harper's method of Canadian federalism support the idea that his intentions may be sincere, but are too broad to successfully implement. The open model appears to be a balancing act between securing multinationalism and accepting of Québec, while simultaneously tackling fiscal imbalance through economic policies and stabilizers. Along with the balancing act of multiculturalism and fiscal concerns that Harper presented as part of his platform back in 2004, other contemporary issues are now on the backburner. There are other two prominent issues that stand out alongside the current challenges of multiculturalism and fiscal concerns: the proposal of Senate reform and conflicts concerning aboriginal rights. In accordance with the on-going challenge involving Senate reform, questions have been raised about whether Harper's open federalism was the driving force behind this idea, and more significantly, whether the approach is "open". Scholar Nadia Verrelli argues that both Bill C-19, which proposes limiting the term of senators to eight years, and Bill C-20, which would allow senators to be appointed only after being elected in their region, represents a more democratic approach to the

current Senate situation;¹⁸ however, this proposal also reflects a contentious issue, as the provinces would be granted a direct say in selecting Senators at the cost of ignoring traditional principles of the Canadian Senate.¹⁹ Consequently, this approach to Senate reform neglects the traditional roots of the Senate, although Harper's approach allegedly relies on returning to classical model of the federation. Furthermore, it is suggested that these adjustments would provide legitimacy for incorporating the provinces in the federation, which serves as an important concept of intrastate federalism.²⁰ Therefore, this method of Senate reform is controversial because it would still focus on regionalism, rather than multiculturalism, and is comparable to the failed reform of Pierre Trudeau in 1978.²¹

A focus on regionalism would also invalidate the multicultural aspects that Harper's approach supposedly promotes, and consequently, would not be much of a reform. Additionally, Harper's proposed Senate reform would require legislation to be passed only through Parliament. This would lead to further alienation of the provinces, like with Trudeau's unilateral attempt at reform and patriation of the constitution.²² Together, responses to these proposals emphasize the idea that Harper's approach to Senate reform is a remarkably contentious issue that would further exclude representation of the provinces in the Senate through centralization. Furthermore, this method of reform does not reflect the multicultural aspect of Harper's open federalism but instead appears to involve a limited say for regions, as well as for the nation's minority groups.

Along with Senate reform, another contemporary federalist issue revolves around Aboriginal rights. In particular, education for Aboriginals on reserves has been very limited

¹⁶ Thomas J. Courchene, "Variations on the Federalism Theme," *Policy Options*, (2006): 46, <http://policyoptions.irpp.org/issues/the-fiscal-imbalance/variations-on-the-federalism-theme/>.

¹⁷ *Ibid.*, 52.

¹⁸ Natalie Verrelli, "Harper's Senate Reform: An Example of Open Federalism," *Institute of Intergovernmental Relations*, Queens University, (2008): 1.

¹⁹ *Ibid.*, 2.

²⁰ *Ibid.*

²¹ *Ibid.*, 5-6.

²² *Ibid.*, 7.

compared to other groups in Canada.²³ These limitations refer primarily to the lack of cultural material taught.²⁴ Due to the lacking cultural aspects within academics, a central issue of identification exists. It has been suggested that a disconnect with self-identity leads to instability of self-worth, and in turn, a decrease in the importance of education decreases for the individual.²⁵ Over the years, this decrease in the education of Aboriginal youth has sharply plummeted, and the absence of cultural factors such as language continues to contribute significantly to this crisis.²⁶ Although the administration of education is within provincial jurisdiction, the education crisis of Aboriginal youth has been an on-going issue that requires the federal government's assistance; however, Harper's current approach to federalism is focused on respecting the jurisdictional responsibilities of the provinces as dictated by the classical model of federalism. In addition to this classical stance on federalism, Harper's open approach also focuses on multiculturalism, but apparently only in regards to Québec, which has the effect of creating repression of the First Nations. Consequently, without further investigation into Aboriginal education, and as long as cultural activities with which students can identify are withheld in early education, the self-worth of Aboriginal students will continue to decrease, and academics will be liberally observed rather than practiced.²⁷ Therefore, through analysis of these contemporary issues of the federation, it is evident that Harper's broad approach to federalism does not solve the challenges that Canadian society is presently facing.

²³ Laura Sokal, Karen A. Duncan, and Cassandra R.M. Brade, "The Pathway to Education in a Canadian Aboriginal Context," *Canadian Journal of Native Education* 27, no. 2 (2003): 237, <http://ezproxy.library.dal.ca/login?url=http://search.proquest.com.ezproxy.library.dal.ca/docview/230303839?accountid=10406>.

²⁴ *Ibid.*

²⁵ *Ibid.*, 238.

²⁶ *Ibid.*, 240-1.

²⁷ *Ibid.*, 246.

In addition to weighing the effectiveness of Harper's approach to resolving contemporary challenges, it is helpful to examine practices of former prime ministers. In comparison to former Conservative prime minister Brian Mulroney, an advocate for collaborative federalism, Harper has developed a more reserved relationship with the provincial governments, which is reflected by his lack of participation in meetings with the provincial premiers.²⁸ This particular characteristic of Harper's stems from the early years of the millennium, when he advocated for provincialism for Alberta. This would have granted Alberta the same recognition that Québec had received; this initiative has since come to be known as the Firewall Letter.²⁹ Harper's participation in this initiative prior to the unveiling of his platform for open federalism in 2004 represents an interesting opposition between his stance on recognizing Québec as a nation within Canada and the resentment that he previously displayed towards the region. Moreover, this also suggests that Harper's approach to federalism strives to develop acceptance from regions that will benefit him at the time – in these cases, Québec and Alberta.

Québec has capitalized on asymmetrical treatment from Harper's model and has consequently received more regionalized and cultural attention than the rest of Canada. Furthermore, in contrast to the present model that Harper Conservatives are pursuing, Mulroney's government strived to re-develop good relations with Québec through constitutional agreement but did not intend to view Québec as a nation within Canada.³⁰ Mulroney was the driving force behind the Meech Lake Accord, which contained special recognition for Québec at the request of Robert Bourassa; however, his true intent was simply to establish cooperation between Québec and the rest of Canada. This idea further contrasts with Harper's open approach, which suggests

²⁸ Frédéric Boily, "Federalism and the Federation According to Conservatives (1957-2011), *The Federal Idea*, (2014): 17, <http://ideefederale.ca/wp/?p=2683>.

²⁹ *Ibid.* According to Boily, this became known as the "Albertan Quiet Revolution."

³⁰ *Ibid.*, 11.

cooperation between the federal and provincial jurisdictions through decentralization but often acts in a centralized fashion, particularly in the field of economic policies.³¹ A prime example of this is the Conservative climate change policy that was implemented in 2007. The policy was established without an exchange of ideas with the provincial governments and in turn proved to be less successful than it potentially would have been through coordination of the federal and provincial powers.³² Ultimately, through this comparison with former Prime Minister Mulroney, it is evident that past models of federalism have also been flawed: however, compared to Mulroney's multicultural initiatives, Harper's approach to federalist concerns is lacking.

In addition to contrasting the ideas of past prime ministers' approaches to federalism, it is important to examine the models of the current leaders of the opposition parties. In contrast to Harper's open model of federalism, both Justin Trudeau and Thomas Mulcair advocate different approaches to federation. Trudeau's approach indicates a desire for democratic reform of the Senate that would eliminate the appointment of senators and instead enable elected Members of Parliament to thoroughly represent public concerns.³³ Along with advocating for the elimination of senate partisanship, the Liberal Party stresses the importance of a strong federal government to administer social policies to minority groups, such as First Nations, who have been neglected in the past in the domains of education and housing.³⁴ This element of the Liberal platform is evidently in contrast to Harper's open federalism, which is focused on respecting the division of powers, with the exception of combating economic crises of instability.³⁵ Furthermore, it is helpful to draw similarities and differences between Justin Trudeau's federalist

views and those of his father, Pierre Trudeau. A significant similarity between the two Liberal leaders is their support for a strong, centralized government that allows for cooperation on economic and social policies throughout the nation.³⁶ Another characteristic that they share is their position in regards to Québec, and the necessity of the province's reconnection with the rest of Canada, but without receiving special treatment or status in the process.³⁷ Despite these similarities, Justin Trudeau voices a disapproving position on his father's implementation of the National Energy Program, which represented a decentralized approach to the redistribution of wealth – similar to Harper's model.³⁸ Therefore, it is suggested that the government of Justin Trudeau contrasts to Harper's current leadership, and would result in a more centralized federal government with a strong focus on implementing social programs.

Like Trudeau, Mulcair also offers a different approach to the federal system. In accordance with federalist tenets, Mulcair advocates a cooperative model that would supersede unilateral decision-making through regular First Ministers Conferences, and ensure the implementation of successful economic and social policies throughout both levels of government.³⁹ Unlike Harper's open model, which supports a distinct division of powers, Mulcair's model would offer a more hands-on approach to combating crises and fostering good relations within the federation.⁴⁰ The New Democratic Party proposes an approach to federalism that is similar to that of Harper's Conservatives by emphasizing

³¹ Ibid., 22.

³² Ibid.

³³ Liberal Party of Canada, "Democratic Reform," (2014), <http://www.liberal.ca/democratic-reform/>.

³⁴ Liberal Party of Canada, "Social Policy," (2014), <http://www.liberal.ca/social-policy/>.

³⁵ Harper, "My Plan," 1.

³⁶ Lee Berthiaume, "Like father, like son: A look at how closely Justin Trudeau treads in his father's footsteps," *National Post*, (2013), <http://news.nationalpost.com/2013/04/05/like-father-like-son-a-look-at-how-closely-justin-trudeau-treads-in-his-fathers-footsteps/>.

³⁷ Ibid.

³⁸ Ibid.

³⁹ New Democratic Party of Canada, "NDP Policy," (2013), http://xfer.ndp.ca/2013/policybook/2013-04-17-PolicyBook_E.pdf.

⁴⁰ Inwood, "Understanding Canadian Federalism," 100.

the significance of asymmetrical federalism.⁴¹ Mulcair emphasizes that asymmetrical relations with Québec are vital to preserving the unique identity of the province, which is reflected in the opportunity for the region to opt-out of national programs (with compensation) that could affect the preservation of their values.⁴² Another initiative that Mulcair would pursue if elected for office is the abolishment of the Senate.⁴³ Although this would make the Parliament more democratic, since it would be composed of only elected members, there has been much opposition to this idea. Scholar Jennifer Smith uses the NDP's proposal for a national day-care program to exemplify the significance of the Senate's role in a federal system.⁴⁴ Smith suggests that the program's enactment would be part of provincial jurisdiction, and therefore without the Senate, it would be difficult for provinces to express their concerns regarding the policy's implementation, which in turn could diminish the legitimacy of the policy.⁴⁵ In response to the proposal, Smith also suggests that Senate reform would be a more effective method for solving current federalist issues, as opposed to complete abolition of the institution. To illustrate her suggestion, Smith proposes that the abolition of the Senate would create further issues for the amendment process of constitutional change, as all decision-making would be left solely to the chamber of the House of Commons, thereby establishing a unilateral body of thought – a development that Mulcair is against;⁴⁶ however, Harper's intentions for Senate reform are also contentious, with regards to the focus of regionalism that they would impose.⁴⁷ Therefore, it is evident that whether the Conservatives are striving to reform the Senate or the NDP are attempting to abolish the institution,

the government will receive support and opposition no matter which leader is advocating change.

In conclusion, it is evident that Harper's open approach to federalism has its strengths and weaknesses. Although his interpretation of federalism represents a democratic and decentralized approach for the provinces, the model's intentions of addressing multicultural values are often neglected due to an emphasis on regionalism. Furthermore, Harper's approach to Québec's multinational values is symmetrical in comparison to his approach to the rest of the nation and consequently appears to ignore the rest of Canada. In regards to solving contemporary challenges within the federation, it is suggested that Harper's model does not represent a direct approach to solving multicultural concerns or financial imbalances. For these reasons, it can be suggested that a government led by either Trudeau or Mulcair would represent a positive alternative to solving these issues within today's federation. Both Trudeau and Mulcair's interpretations of federalism advocate for more collaboration between the central and provincial governments in implementing social programs to combat issues arising from contemporary challenges; however, like Harper, the opposition leaders propose the contentious idea of reforming, or even abolishing, the Senate. Therefore, it is suggested that the diverse interpretations of federalism are all bound to objection and support for different strengths and weaknesses of the platforms. By and large, it can be acknowledged that there is no perfect model for federalism that will resolve all of Canada's issues, however, the lacking actions of the Harper Conservatives demonstrate that the federalist model they are proposing as "open" may be better identified as closed, in that it is closed to cooperation with the sub-units to solve contemporary issues within the federation.

⁴¹ Ibid., 33.

⁴² New Democratic, "NDP Policy," 32.

⁴³ Ibid., 21.

⁴⁴ Jennifer Smith, "Abolishing the Senate: The NDP's bad idea," *The Federal Idea*, (2013): 10, <http://ideefederale.ca/wp/?p=2659&lang=ang>.

⁴⁵ Ibid.

⁴⁶ Ibid., 11-2.

⁴⁷ Verrelli, "Harper's Senate Reform," 5.

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