

# A partnership proposal

## A WAY OUT OF THE IMPASSE

A solution to the ongoing crisis in the relationship between Quebec and the rest of Canada is imaginable, but it requires a break from the formula that has been central to all constitutional proposals since the mid 1980s. The failing formula links a weak recognition of the national rights of Quebecers to the erosion of the rights of social citizenship vital to the sense of national identity of Canadians outside of Quebec. This discredited formula was at the heart of the Meech Lake accord, the Charlottetown agreement, and, recently, the Calgary declaration.

The key to escaping the current constitutional impasse is to substitute for this formula one that links the full recognition of the historic rights of Quebecers to the protection and even the expansion of the democratic and social rights of Canadians outside Quebec.

An important element of the legacy of historic rights for Quebecers and Canadians in English-speaking Canada is the accountability of executives to elected legislatures, embodied in the principle of responsible government and won in central Canada through an alliance of French and English 150 years ago. There are also protections for the English minority in Quebec and French minorities outside Quebec. In addition, there are different traditions of historically evolved rights for Quebecers and for other Canadians, which are placed in competition in the federal arrangements that have evolved since the World War II.

The historic rights of Quebecers centre on control by a legislature accountable to a majority French-speaking electorate of those areas of jurisdiction fundamental to the protection and promotion of the distinct culture of that majority, including, centrally, areas of life now affected by modern social programs. These were won in 1791, removed in 1841 as punishment for the Rebellion of 1837, reinstated in the division of powers in

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the *British North America Act* as a precondition for Confederation, challenged by the expansion of Canada's post-war welfare state, and ignored in the 1982 constitutional amendments.

## ENGLISH CANADA'S PARALLEL RIGHTS

Canadians outside Quebec have a parallel set of historically evolved rights, dating from the innovations to Canadian federalism during and after World War II. These concern the protection and promotion of a shared social citizenship by a democratically accountable national government. For most English-speaking Canadians, the recognition of democratic and equality rights in the *Constitution Act, 1982* and the recognition of multiculturalism form a new and integral part of their common rights. Mobilization in defence of these two sets of rights was important to opposition in English-speaking Canada to both the Meech Lake accord and the Charlottetown agreement.

The formula of "provincial equality" cannot accommodate the different traditions of historically developed rights of Quebecers and English-speaking Canadians. Rather, it places them in opposition.

Accommodating the differing political traditions can only be done through federal institutions structured to reflect a partnership between Quebecers and English-speaking Canadians. (I would add, for a host of reasons, that new federal institutions should accommodate a partnership of the three territorially based types of society in Canada: First Nations, Quebec, and English-speaking Canada).

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recognition of the national rights of Quebecers and aboriginal peoples to the protection and expansion of the social and democratic rights of Canadians in English-speaking Canada. Positioned in this way, such a partnership proposal would resonate with a wide section of the population and win the support of the social advocacy organizations in English-speaking Canada that have already endorsed the "three nations" concept of Canada. It could be the basis for a political alliance between Quebecers and English-speaking Canada and between political elites and the majority in Canada outside Quebec.

## BUILDING THE PARTNERSHIP

The following is a scenario for arriving at such a partnership.

A new prime minister would announce that his or her government recognizes that the existing strategy of renewing federalism is not working. Specifically, what is failing is a strategy of trying to accommodate provincial governments by subjecting federal spending power in the area of social programs to a provincial veto, inviting the provinces to define national standards for social programs and unilaterally provincializing other responsibilities, such as training programs. He or she might add that the strategy is unacceptable because it insufficiently addresses the concerns of Quebec, does not have the support of Canadians outside Quebec, and removes control of executive power from democratically accountable legislatures. In place of this approach, his or her government would adopt a new strategy, based on the following two elements:

1. A declaration affirming the clear constitutional authority of the federal government to exercise its spending power in areas of exclusive provincial jurisdiction, including social programs, post-secondary education, and labour market policy, and to attach conditions to that spending.

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ism, which would include a true recognition of Quebec's difference.

In the federal government's eyes, the only solution to the Quebec issue lies in the election of Jean Charest. This hope demonstrates an unbelievable inability to understand the seriousness and complexity of the situation. Not all Quebecers agree with the demands of the PQ government in terms of political autonomy, but the great majority wish that the federal government and the ROC would finally understand that the Que-

bec issue is not an ephemeral one confined to language. Quebec is a multicultural society where 85.3 percent of all French-speaking Canadians reside; a society living its public life in French, just as much as English Canada is a multicultural society living its public life in English. Nonetheless, Quebecers want Ottawa to understand and explain to the rest of Canada that such a difference does entail political consequences that would not threaten the existence of our nation, but that would actually enhance it.

The blindness of the federal government remains bewildering to a federalist such as myself. Although I do not share the desire of the separatists, I can see that the divide between the respective collective memories of Quebec and the rest of Canada grows consistently wider as time passes. I fear that the inability of the federal government to grasp the extent of the problem, let alone be an advocate of a new understanding, will accelerate the disintegration of this country. ❖

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This declaration would be accompanied by the announcement of major new initiatives in these areas of jurisdiction to mark the commencement of the post-deficit era and the dawn of the new millennium.

2. An offer to any province to opt out of federal programs with compensation in the area of social programs, post-secondary education, and labour market policy on two conditions:
  - a. the government receives a mandate from the electorate of the province in the form of a majority referendum vote to opt out; and
  - b. members of Parliament from a province that has opted out will not vote on measures that directly relate to these areas of jurisdiction. (This condition would have to be contained in the referendum).

### THE CHALLENGE TO PROVINCIAL GOVERNMENTS

Such a scenario is possible within the framework of existing federal arrangements and is even consistent with the notion of "provincial equality." However, at the same time, it requires any provincial government demanding the provincialization of federal responsibilities to demonstrate that it has a popular mandate for its claims. It also prevents the electorate of an opted-out province from having a say over federal programs affecting citizens of the non-opted-out provinces.

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My expectation is that the likely outcome of such a proposal would be that only the electorate of Quebec would vote by a majority of 50 percent plus one to opt out of federal programs. Even here, though, the combination of a federal commitment to expand social rights and the reduction in representation in the federal Parliament would give Quebecers an interesting choice. If they did vote to opt out, then the federal Parliament would represent English-speaking Canada with respect to federal involvement in the areas of social programs, post-secondary education, and labour market policy. This form of asymmetry might be transitional to the development of other institutional arrangements reflecting an explicit partnership between Quebecers and Canadians in English-speaking Canada.

It is possible that Canadians in provinces other than Quebec would vote to opt out of federal programs with compensation, thereby losing representation with respect to these matters in the federal Parliament. This would be undesirable but much preferable to the current situation where provinces are reaching a hodge-podge of different arrangements with the federal government through administrative agreements of which the average Canadian has no knowledge. Canadians in English-speaking Canada would at least have been given the chance to debate and choose democratically the institutional arrangements under which they wish to live instead of having the decisions made for them by unaccountable elites working through irresponsible institutions of executive federalism. ❖