

Roads to Rome: Alternative Intergovernmental Routes to Policy Frameworks in Federations

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Abstract All federations must find ways to create and maintain policy frameworks to guide the decisions of authoritative actors within specific sectors. The division of powers, however, profoundly complicates the formulation of policy frameworks, and achieving them requires intergovernmental processes that breathe life into the formal division of powers to allow actors from the various constituent units to develop and install shared directives to guide policy choices within the pertinent sectors. This paper examines the alternative intergovernmental roads that authoritative actors use to develop policy frameworks creating a typology of vertical and horizontal. Drawing on the work of Smiley (1987), who demonstrated the salience of *intragovernmental* relations for the organization and execution of *intergovernmental* relations, we can begin to systematically anticipate the types of intergovernmental processes that will tend to dominate within a federal system. Following Radin and Boase (2000), this paper also considers how the configuration of intergovernmental relations and the workability of certain processes are also affected by the underlying logic of the broader political system. Factors beyond institutions must nevertheless be added into the mix, as norms and culture influence the workability of certain interactions and the crystallization of policy frameworks (Wallner 2012). Correctly anticipating the configuration and subsequent results of intergovernmental relations to install frameworks thus requires careful identification of internal groupings and cultural synergies at work within a particular federation.

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All federations must find ways to create and maintain policy frameworks to guide the decisions of actors within specific sectors. The division of powers, however, profoundly complicates the formulation of policy frameworks. By constitutionally allocating policy competencies between at least two orders of government, policy capacity and authority is not maintained by a single sovereign entity. The achievement of policy frameworks thus requires intergovernmental processes that breathe life into the formal division of powers to allow actors from the various constituent units to develop and install shared directives to guide policy choices within pertinent sectors.

This paper examines the alternative intergovernmental roads that authoritative actors use to develop policy frameworks creating a typology divided between vertical and horizontal processes. In so doing, I map out the characteristics of the various processes and the conditions that make certain types of intergovernmental interactions more likely. Drawing on the work of Smiley (1987), who demonstrated the salience of *intragovernmental relations* for the organization and execution of *intergovernmental relations*, we can begin to systematically anticipate the types of intergovernmental processes that will tend to dominate within a federal system. Following Radin and Boase (2000), moreover, I also consider how the configuration of intergovernmental relations and the workability of certain processes are also affected by the underlying logic of the broader political system. Factors beyond institutions must nevertheless be added into the mix, as norms and culture influence the workability of certain interactions and the crystallization of policy frameworks (Wallner 2012). Correctly anticipating the configuration and subsequent results of intergovernmental relations to install frameworks thus requires careful identification of internal groupings and cultural synergies at work within a particular federation.

To help illuminate the alternative roads to policy frameworks, I draw on material from Canada and the United States focusing on the field of education. These two federations were initially designed according to the principles of dual federalism where large numbers of competencies—including education—were constitutionally assigned to afford the two orders of government considerable autonomy to exercise their respective powers (Bolleyer 2006a: 475). Furthermore, in contrast to a number of other federations, both countries have only loosely institutionalized their respective intergovernmental infrastructures—suggesting that the formulation of policy frameworks should be a considerable challenge. Despite these obstacles, both countries have worked to establish overarching frameworks but have taken noticeably different routes with considerably different results.

I advance the argument in four stages. It opens by defining policy frameworks, articulating some benefits that can be derived from them, and the challenges that federations face in formulating them. The second section maps out the alternative roads to framework formulation, distinguishing between vertical and horizontal processes. The third section compares the emergence of K-12 policy frameworks in Canada and the United States. The evidence reveals that horizontal processes have dominated in Canada, with the national government completely excluded, while vertical processes that have prevailed in the US carried on the back of increasing

federal intervention into the field. Interestingly, however, the framework in Canada demonstrates more subnational consistency than the one at work in the US. I argue that these differences in intergovernmental processes and the subsequent outcomes stem from institutional and cultural factors of these two federations. I conclude with a brief discussion of these findings and consider the lessons that can be applied to emerging federations, like Spain.

Policy Frameworks and Federations

Policy frameworks are the scaffolding that guides the actions and choices of decision-makers. While frameworks vary in the level of details included within them, hallmarks include defined objectives and goals of a particular sector or for a specific initiative, definitions of programs that can be used by the various jurisdictions, specification of certain instruments and methods of administration, and monitoring and enforcement mechanisms to track whether or not the framework is being respected. Policy frameworks thus structure activity by installing a particular logic for policymakers to use as a marker informing choices as they develop and deploy the individual practices within a broader sector.

Frameworks can provide three benefits addressing, in turn, the ideas of equality, efficiency, and effectiveness. By establishing a baseline, frameworks can help nurture the realization of equality by encouraging subnational decision-makers to invest at comparable levels, establish similar entitlements, and introduce common regulations on various activities such that all citizens of a federation enjoy the benefits that the country as a whole can provide (Simeon 2006a). Moreover, frameworks contribute to efficiency in a federation by sharing the task of policy-making across multiple jurisdictions, potentially elevating the capacity of smaller governments to act in their spheres of competency while simultaneously smoothing out interjurisdictional inconsistencies that may disrupt public activity. The scaffolding also helps ensure that the quality of products is reasonably consonant across the constituent jurisdictions, which should promote economic growth and minimize internal transaction costs. Finally, frameworks can also elevate policy effectiveness. Simply put, if the activities of the constituent governments are not somewhat coordinated, with major variations demarcating the individual jurisdictions, policy outcomes as a whole may suffer.

The obstacles to framework formulation start with constitutional division of powers. Because more than one authority enjoys jurisdictional authority over designated policy areas, intergovernmental collaboration is required to construct the scaffolding. This challenge is particularly acute in dual federations, like Canada and the United States, while likely somewhat more muted in cooperative ones where many of the spheres of competency are held concurrently such as Germany and Austria (Thorlakson 2003). Beyond this institutional factor, economics and geography can weigh heavily on these processes. Smaller federations with less variation between the constituent units may be better able to maintain cohesive

frameworks to structure particular policy sectors. Divergent economic interests can also act as a powerful countervailing force impeding the abilities for political actors to work together and agree to common arrangements. Indeed, even variations in the relative size of the constituent units can deter collaboration. Economically strong governments, for example, “quite regularly find it more beneficial to ‘fend for themselves’ and strive for special deals” (Bolleyer 2009: 9) further eroding the installation of viable frameworks.

At this point, some caveats must be made. Not all frameworks are beneficial, and there are a number of negative consequences that can accompany their installation. Most obviously, the advantages of frameworks are heavily dependent on the suitability of their design and execution. Overly broad, frameworks will be too vague to provide meaningful guidance; overly specific, the frameworks will be unsuitable given the various needs and conditions within each of the subnational jurisdictions. Furthermore, coercive instruments—particularly from the national to the subnational governments—are likely to breed resentment among the various players. However, without such mechanisms, compliance becomes less assured and the effectiveness of the framework is put in doubt. The crafting and installation of policy frameworks thus require a high degree of sensitivity and awareness from all those engaged to formulate a workable and viable arrangement to provide a meaningful beacon for decision-makers. Finally, overarching standards, mandates, and the prescriptions that frameworks imply all have the potential to stymie creativity and innovation or inappropriately impose the priorities of one government onto others. Consequently, the techniques and strategies that are used to generate and maintain policy frameworks are of critical import to their long-term success.

Intergovernmental Roads to Policy Frameworks

For students of federalism, the most familiar paths to policy frameworks are the vertical interactions between the national and subnational governments, also known as cooperative or collaborative federalism (Cameron and Simeon 2002; Simeon 2006b). Vertical intergovernmental processes can manifest in three ways: universally, bilaterally, and unilaterally. Under vertical universal processes, all members of the federation are involved in the intergovernmental interactions. Such multilateral engagements require considerable time, ongoing negotiations, and stable, institutionalized support to reap meaningful benefits (Bolleyer 2009). In Australia, for example, key policy reforms that are of national significance are jointly negotiated through the Council of Australian Governments (COAG), comprised of the Prime Minister, State Premiers, Territory Chief Ministers, and the President of the Australian Local Government Association.

Vertical bilateral negotiations see the deployment of one-on-one processes between the national and one subnational government that, when added together, ideally manifest in a coherent framework. Such processes are more likely in

federations with salient internal diversity, either social or economic, that differentiate the various subnational jurisdictions. In federations such as these, gaining the unanimous consent of every jurisdiction will present major difficulties, thus encouraging the deployment of bilateral processes. This road to framework formulations has become the preferred route for the Canadian federal government, traversed with increasing frequency over the past decade, as federal politicians have largely abandoned the multilateral route choosing instead to engage the provinces individually.

Fully exerting a sense of hierarchy, national governments can also do it alone, developing frameworks unilaterally without engaging the subnational governments directly. Here, national decision-makers take firm control to sketch out the parameters of the blueprints, identify key priorities and targets, and then encourage subnational decision-makers to adopt the protocol. Here, federal funds in the form of conditional grants can act as a powerful carrot to garner the necessary endorsements of the other intergovernmental players. This type of process is most likely in federations with stronger forms of *intragovernmental* representation as national institutions enjoy greater legitimacy to legislate on behalf of the country as a whole.

Horizontal processes are less familiar to students of federalism. As Bolleyer (2009: 2) opines: “Interstate relations, the horizontal relations between lower level governments, have received astonishingly little attention so far”. Similar to the vertical processes, horizontal interactions can manifest bilaterally, multilaterally, and universally. Like vertical universalism, horizontal universalism can be a challenge particularly in federations with considerable internal diversity, leading some jurisdictions to pursue undertakings either bilaterally or multilaterally, in the hopes that others join in later. Institutionalized organizations also facilitate horizontal coordination by providing historical memory, regularizing their interactions, and generally strengthening the capacity for subnational governments to collaborate (Bolleyer 2009). Key instruments in these horizontal processes include pacts, mutual recognition clauses, and shared policy initiatives. Mechanisms familiar in vertical interactions, such as conditional grants and unilaterally developed mandates, however, do not appear in horizontal relations as the crucial attribute of hierarchy does not prevail. Instead, adherence to the frameworks relies on the voluntary commitments of participating governments. Horizontal processes are more likely to emerge when the national government is disengaged from a particular area or as a defensive posture to resist incursions from the national government (Bolleyer 2009; Rabe 2007).

Building from Smiley (1987), the processes of framework formulation are influenced by other institutions—specifically those designed to build subnational representation *within* the central government, known as *intragovernmental relations*. As mentioned above, in federations that have developed strong forms of intragovernmental relations where the interests of the constituent members are represented within the institutions of the national government, the processes of negotiating and defining the terms for the various sectors will likely occur within that arena. For those federations that only weakly represent the interests of the

constituent governments within the national chambers, vertical bilateral and universal processes are more likely to prevail. What is more, where intragovernmental representation is stronger, the national government is better equipped to stake a role in policy areas that fall outside of its constitutional authority more frequently deploying vertical unilateralism. Radin and Boase (2000) also implicate institutional factors suggesting that the underlying logic of the political structures is a significant determinant of intergovernmental relations. Due to the logic of centralization and executive dominance, in parliamentary federations, greater consistency across the subnational governance arrangements is likely to appear, facilitating horizontal collaboration reducing the transaction costs of exchanges. For those deploying alternative political structure that privilege fragmentation, inconsistencies in subnational governing arrangements are likely to hinder horizontal coordination. Finally, all undertakings are influenced by the prevailing cultural and normative climate that pervades a given federation. Looking at national and subnational processes, following Erk (2007), multilingual federations are more likely to resist national incursions in areas of subnational responsibility. Drawing on the work of sociological institutionalists, moreover, subnational interactions are more likely to occur within internal regional subgroups that share common ideas, historical memories, and a tradition of collaboration.

Framework Development: Education in Canada and the US

The Canadian provinces have jealously guarded their authority in the field of K-12 education, choosing to work together to fashion a fairly integrated and coherent policy framework to oversee programs, regulations, and activities in the field (Wallner 2012). To be sure, provinces employ their own unique strategies and educational programs, but in the main, the elementary and secondary education systems are similarly configured across the country.

Every time the federal government tried to infiltrate the sector, typically through conditional grants, the ensuing results failed to install a lasting legacy of federal engagement. Developments in vocational training are illustrative. In the 1960s, Ottawa unilaterally wanted to encourage the provinces to expand vocational training within the secondary system and offered a series of lucrative conditional grants. All of the provinces accepted the funds and used the federal monies to build new schools, ostensibly promising to dedicate space exclusively for vocational training. However, once the funds were turned over, the provinces deviated from the federal mandates and deployed the money to support comprehensive schooling, an alternative form of high school programming, rather than the exclusive vocational training desired by the federal government. Federal funds offered unilaterally thus failed to gain a permanent foothold in the crafting of the Canadian education policy framework.

Actions from the federal government nevertheless encouraged a crucial development in the sector. In the 1950s, officials from Ottawa started circumventing the

provinces and tried to establish a leadership position as the formal representative for Canadian education on the international stage. In response, the provinces established the Council of Ministers of Education Canada (CMEC), an organization dedicated to strengthening provincial leadership in the field, facilitating interprovincial learning, and nurturing collaborative initiatives. Unlike other sectoral tables, the federal government is excluded from the K-12 table, leaving it entirely in the hands of provincial (and territorial) leaders. Voluntary coordination and cooperation among the subnational governments are goals of the Council, and the institutionalization of this coordinative body has increased horizontal engagements in the sector. While undeniably a provincial initiative, it was nevertheless motivated by a fear of federal intervention in the field.

Over the past 20 years, interprovincial undertakings have markedly increased, with formal collaborations emerging in universal assessments, teacher mobility, and curriculum. These collaborations have advanced under the auspices of a series of intergovernmental organizations, including the CMEC, with noticeably different results that reveal the influence of both institutional and cultural factors on horizontal intergovernmental relations for policy frameworks. Transformations in curriculum policy neatly encapsulate these realities.

Under the Atlantic Provinces Education Foundation (APEF), in 1993, the four provinces of Atlantic Canada ratified a common statement on essential graduation learnings, followed by foundation documents across six curriculum areas that led to the complete harmonization of curriculum across the jurisdictions in 2000. At the same time, British Columbia, Alberta, Saskatchewan, and Manitoba signed the Western Canadian Protocol for Collaboration in Basic Education (WCP). The WCP led to the articulation of common learning outcomes across a wide array of subject areas. However, unlike Atlantic Canada, full harmonization was not achieved. Finally, the CMEC adopted the Pan-Canadian Protocol for Collaboration on School Curriculum in 1995. The Pan-Canadian process led to the formulation of common learning outcomes in science, released in 1997, with no further advancements in other areas.

Looking at the CMEC undertaking, the impact of the horizontal universal process has been limited at best. According to one official: “The Pan-Canadian framework on science has way too many outcomes because of the number of provinces believing what is important and insisting on their priorities—so you need to filter from what’s there to shrink it to a doable size”. Another official affirmed: “Working through the CMEC is often an unwieldy process. Getting all the governments to agree is a real challenge and results are frequently watered down”. Regional curriculum collaborations thus demonstrated noticeably more success than the one shepherded by the CMEC. Nevertheless, contrasting outcomes emerged here with Atlantic Canada fully harmonizing, while western Canada still maintains separate curricula. The explanation for this variation turns on differences in the institutional and cultural connections of the regions.

The APEF (which later evolved in the Council for Atlantic Ministers of Education and Training) provided crucial support throughout the various stages of harmonization, with the permanent secretariat offering vital administrative

assistance. One respondent from Nova Scotia put it most succinctly: “Without the CAMET, the harmonized curriculum would not have been achieved”. Such well-institutionalized organized supports are not a reality in Western Canada. A former minister of education from Saskatchewan acknowledged: “In Western Canada, the relations among the ministers are more like an informal working group with irregular meetings and haphazard efforts. Our relations are simply not as formalized as those in Atlantic Canada”. A respondent from Alberta similarly noted: “There is not even a separate caucus dedicated exclusively to the education ministers of Western Canada”. Provincial education officials in Western Canada thus lack the critical organizational support that is necessary for comprehensive harmonization.

The greater institutionalization of intergovernmental relations in Atlantic Canada is also reflective of cultural ties. In particular, the three Maritime Provinces have long demonstrated close affinities with each other that frequently manifest in similar policy choices and a general proclivity to look to one another when formulating educational reforms. The provinces of Western Canada have never exhibited a comparable degree of cultural synergy. Sources involved in the WCP also reported that ideological differences in the governing parties, particularly between Alberta and the other provinces, further undermined the potential for comprehensive harmonization. At the time, the Alberta government was pursuing an agenda for radical change in education with one prominent proposal involving strengthening choice by creating public-private partnerships and charter schools. These ideas became lightning rods in heated debates that stretched beyond Alberta’s borders, and the impulse towards privatization clashed with many of the ideas held by other signatories of the Protocol, particularly in Saskatchewan and Manitoba. Ideological distance among the affected parties thus reinforced the barriers to curriculum harmonization in Western Canada.

Like Canada, K-12 education in the United States falls to the states. However, unlike Canada whereby the provinces established clear roles and centralized the governance of schooling under the respective ministries of education, the authority and management of American K-12 schooling involves the national, state, and local levels of government. What is more, marked variations continue to demarcate the American educational landscape from governance and administration to finance and curriculum. In the words of Paul Manna (2011: 12): “State and local power over education has created a diverse patchwork quilt of approaches and institutions across the United States. Saying that the country has a ‘system’ of elementary and secondary education overstates the degree of coherence that actually exists”. The roots of these variations lie in certain institutional and cultural conditions of the American federation.

Washington’s influence in American education has intensified over the last 50 years. The first major step was taken in 1965, when President Lyndon B. Johnson secured the passage of the Elementary and Secondary Education Act (1965). While initially targeting the needs of disadvantaged students, this act is the foundation for most federal activity in the field, having witnessed a host of major revisions through a series of Congressional reauthorizations. Throughout these authorizations, three goals have stood out: improving access and outcomes for impoverished children;

hastening the development of state standards, tests, and accountability; and, finally, holding schools and districts accountable for results. Under the most recent iteration, Congress reauthorized the ESEA as the No Child Left Behind Act (NCLB), signed into law on 8 January 2002, where under its many features states are compelled to develop adequate yearly progress (AYP) statements and increase student testing and accountability regimes in exchange for funds from the capital. What are the factors that led to such a concerted national engagement in an area of state responsibility?

Due to the stronger institutionalization of intragovernmental representation, these federal undertakings were fashioned within the Congressional arena rather than in direct negotiations with state and local actors themselves. As a result, the formulation of a policy framework was fashioned through vertical unilateral processes, as federal decision-makers crafted the scaffolding for states and local decision-makers to implement in their areas of authority. Where Canada is a multilingual federation, moreover, the US has a linguistically unified public space, enabling the emergence of a national policy discourse. However, Washington's ability to install a comprehensive and lasting framework through this strategy has been stymied by the persistent desire for state and local control, described as a "hallowed principle" of the American system.

Zeroing in on the administrative policies at the substate level, the configuration of education in Canada is remarkably centralized. Each provincial department of education, with the political minister of education supported by the permanent staff of the public service, maintains strong control over the vast schooling enterprise. There has been no comparable standardization of administrative practices in the US, and interstate differences extend up to the peak of the governance structure. Simply put, where parliamentary government requires strong and fairly consistent executive leadership, the American political structure does not encourage such standardization. State-level inconsistencies in educational administration stymie subnational coordination, impeding horizontal collaborations.

Nevertheless, recently, states have shown some initiative in the area of curriculum perhaps as a reaction to the increasing prominence of the federal government in an effort to regain control of the sector. Mobilized by the National Governors Association and the Council of Chief State School Officers in 2009, all the states are participating in a series of working groups composed of individuals representing multiple stakeholders and a range of expertise in curriculum design. According to Dane Linn, director of the NGA Center's Education Division: "The Common Core State Standards Initiative allows states to work together to develop common standards that will ensure our students are prepared for the future". Consequently, there are some indications that horizontal processes among the states themselves may help smooth out the existing inconsistencies among the various systems. Despite the glimmer of horizontal relations, however, the outlook for lasting change in K-12 education remains remote. Until the governance and administrative practices are somewhat standardized, with greater authority and policy capacity maintained by the states, an overarching education framework is unlikely to emerge.

Evidence from the two cases thus supports the hypotheses that institutional features beyond the division of powers shape the configuration and execution of intergovernmental relations. The configuration of intragovernmental representation in the United States is markedly stronger than Canada, which expedited Washington's infiltration into the education sector. However, the logic of centralization and executive dominance embedded within the Canadian parliamentary structures contrasts with the logic of fragmentation encapsulated in Madisonian tradition of checks and balances, contributing to subnational collaborations in Canada while hindering coordination in America. Finally, the influence of culture looms large in both countries, enabling Washington interventions while Ottawa remains outside, while simultaneously assisting regional collaborations in Canada while delaying the emergence of a cohesive framework in the US.

Conclusion

What insights from this discussion can be applied to Spain? Due to a number of salient shared characteristics, there are likely to be strong parallels appearing in Spain with the dynamics and processes that have featured prominently in Canada. Already, the national government has demonstrated a clear preference for bilateral interactions. The majority of policy framework formulation occurs through one-on-one negotiations, which are dominating the Spanish landscape likely related to the historical process of internal devolution that advanced progressively with individual regions negotiating separately with the central government to establish the Autonomous Communities. Bilateral interactions have been institutionalized with the creation of joint commissions to somewhat regularize the interactions between the national and pertinent subnational governments. Vertical universal processes nevertheless are gradually emerging, nested beneath a series of sectoral conferences organized according to functional areas, including health, education, and transportation. However, like those in Canada, these sectoral councils are underdeveloped with irregular meetings and lack permanent secretarial support, translating into underwhelming results overall.

Presently, some researchers report that there is a perception across the ACs that intergovernmental institutions are instruments for national control (Bolleyer 2006b).

For horizontal processes to flourish in Spain, allowing the ACs to contribute to the crafting of policy frameworks, the Autonomous Communities need to establish intergovernmental tables that do not directly involve the national government similar to the CMEC. To be sure, asymmetries between the ACs could undermine the viable institutionalization of such forums as regions such as the Basque Country and Catalonia have negotiated more autonomy than others, but common ground across a variety of policy areas could be nurtured under the auspices of intergovernmental organizations, elevating the capacity of the ACs to work together.

While furthering our understanding of intergovernmental processes and policy development, there are a plethora of questions that remain unanswered. It seems clear from the results in Canadian and American education, that policy decisions

within each of the respective subnational sectors also influence the crafting and institutionalization of a meaningful framework. Further research is thus required to determine the ways in which meso-level policy choices can act as a grillwork of gears furthering the emergence of a cohesive framework in a federation. Finally, another aspect that remained unaddressed here was the role of nongovernmental actors in policy development. The federalism literature often struggles to integrate the engagement and influence of members of the wider policy networks in the processes of policy framework formulation. The position of nonstate actors within the decision-making processes and the influence they exert can greatly influence the degree to which subnational governments can work together. Interactive effects of policy choices and the autonomy of state actors from members of the policy community are two new avenues of research that will further contribute to our understanding of the dynamics of policymaking in federations.

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