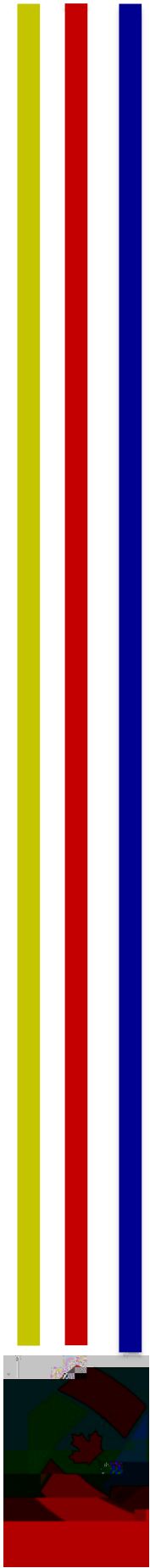




! "#\$%&'()*+,-./:0123456789;
- .10#2.)' (.&)*0(3040#"').%&(

(

S P S Ka L B P D a D a P a S a
Q U (



Québec has initiated a dialogue with the other governments and civil society organizations in Canada with the release of its Policy on Québec Affirmation and Canadian Relations. This discussion would see Québec's place in the federation recognized in a mutually satisfactory way, ending the stalemate that arose out of the constitutional talks in the 1980s and 1990s. The dialogue is overdue but perhaps only possible now that the emotions of those past constitutional struggles have subsided. While the Affirmation Policy provides a good starting point, there are some important points of caution to note, particularly with respect to Indigenous relations, the territories, and asymmetry in the treatment of provinces. Before discussing these issues, however, the Affirmation Policy should be located within Canada's founding federal principles.

Reconciling Unity and Diversity

The Quebec affirmation policy builds on the principles of unity and diversity secured in Canada's original federal bargain. It asks the other provinces to engage in a respectful dialogue that embraces plurality and diversity among and within units and that will ultimately provide a basis for mutual understanding, constitutional change, and recognition of Quebec's unique identity. In turn, the Policy states that:

Québec will continue to participate in building the Canadian political project, while resolutely making its own specific contribution. With a strong national identity that is deeply felt, and wishing to have this identity duly recognized, Quebecers choose to build their future with other Canadians. We are Quebecers and this is our way of being Canadian (Québec, 2017: 2).

In the process, Québec proposes to "make Québec better known to Canadian civil society and to increase its outreach throughout Canada" (Ibid: 2). In a reflection of the principles of deep federalism, the Affirmation project embraces the governmental partners as well as civil society and, more generally, diversity within Canada. By entering the dialogue and respecting the diverse identities among the

The differences between asymmetry symmetrically and asymmetrically applied are captured in Table 1. Asymmetry symmetrically applied involves the federal and provincial governments negotiating framework agreements in major or shared policy areas that establish general principles, objectives, and outcomes as well as broad implementation guidelines, including opting-out provisions with compensatory clauses available to any units. The advantage of these agreements is the delicate balance achieved between unity and diversity: they combine shared commitments to jointly-defined national goals and standards² and to provincial equality with accommodation of provincial differences through flexibility in the interpretation and implementation of these guidelines. Examples of these agreements are the 2004 Health Accord and 1997 Calgary Declaration. In contrast, asymmetry asymmetrically applied refers to deals worked out between the federal government and one or more provinces that do not conform to agreed-upon principles, objectives, guidelines, and opting-out conditions. These agreements allow provinces and territories to negotiate exclusively in their own interests and without reference to the interests of the federation or the other subunits. They privilege flexibility and provincial difference over unity. In this way, they are more consistent with a confederal than a federal arrangement. Examples of asymmetry asymmetrically applied are the 2004 Equalization Agreements where provinces negotiated side deals without reference to the other provinces, the 2007 Council of the Federation agreement on fiscal imbalance which

terms of federation become “How can we all flourish together?” rather than “What’s in it for me?”. Asymmetry based on provincial equality and respect for difference is essential to a well-functioning federation that serves citizen interests. Thus, while asymmetrical asymmetry is required for particular situations, as a general approach to federal negotiations and arrangements, it is less than felicitous.

The Affirmation Policy is predicated upon Québec being Canadian in its way. This vision is not inconsistent with a healthy form of asymmetry. Caution must be exercised that provincial identities are accommodated and respected within a commitment to common values and a vibrant centre.

Moving forward

Québec has initiated a dialogue with governments and civil society in a spirit of goodwill and respect so vital to a federal democracy. As other jurisdictions begin to respond, it might be worth reflecting on three means of moving the dialogue forward in light of the cautions noted above. First, the Québec policy of interculturalism may provide a structural model for dialogue. This structure would, as its starting point, identify the core principles, beliefs, and interests underlying Canada’s identity. Respect and tolerance for difference among the provinces, territories, and Indigenous communities and within civil society would operate within those parameters. This creates a common space (unity) while respecting diversity. Second, the dominant approach to intergovernmental negotiations would be asymmetry symmetrically applied, which would also embrace both provincial equality and national unity. Under this approach, core national values would be respected and options open to one province would be open to all. This approach entails mutual respect between the federal and provincial orders of government. It can also accommodate differences among Indigenous communities and the territories. Asymmetry is the oil that keeps federalism running smoothly, but attention must be paid to the whole for all parts to work effectively. Third, a past proposal may provide a key to the future. The Canada Clause proposed during past constitutional talks may be worth revisiting. The strength of the Clause was its enumeration of Canada’s various parts – including the three founding peoples and other racial and ethnic communities – and its recognition of the equality of men and women. The weakness of the clause was its lack of unifying direction and purpose. A new Canada Charter that affirms the whole while recognizing the parts, including Québec’s distinctiveness, would extend ownership of the constitution and Canada to all jurisdictions and communities, provided that it reflects the principles of fairness, equality, and inclusion.

T