

Contesting Canadian Federalism: A Feminist-Institutional Analysis

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Introduction

It is often said that to study Canadian politics is to study institutions. And much has been written about the formal and informal institutions that have animated the Canadian political system. In Canada, analysis and debate about the outcomes of federalism runs deep. A significant and highly influential component of this academic discourse has examined fiscal arrangements, the tension between regional policy needs versus national unity, the architecture of federalism, often in pursuit of explanations of the shifting contours of federal-provincial-territorial relations, and multi-national federalism with respect to Quebec's "asymmetrical" place within the federation. More recently, scholars are discussing how Aboriginal peoples have, or have not, been accommodated within Canadian federalism. An equally significant literature has examined how federalism has structured state-society relations and the interest articulation system with respect to policy advocacy and public policy outcomes.

What has been remarkably understudied in Canada, perplexing given the presence of a vigorous and sustained feminist political science community, is a critical investigation of federalism through a feminist lens. To be sure, there have been important contributions. The work of Jill Vickers (1994) was groundbreaking, squarely placing the tension between feminism and federalism at the centre of analysis, as does the significant comparative analysis of Canada and Australia federalism by Louise Chappell (2002a).

In this paper, I propose to build on this seminal work by applying a feminist-institutional framework marrying the theoretical and empirical tenets of historical institutional with the transformational objectives of feminism to provide a gender critique of the idea and practice of federalism. From one vantage, feminism brings to the analysis a focus on the gender regimes manifested in the state, an important endeavour given women's particular relationship to the welfare state. From the other, historical institutionalism draws our attention to the institutions and organizations that comprise the state. A feminist-institutional framework of analysis frames the argument that the consequences of Canadian federalism cannot be fully understood without a critical, gender analysis that pays specific theoretical and empirical attention to institutions, not only at the macro level, but at the meso or bureaucratic level.

Scrutinizing women's political place within a federal system is an important endeavour. As "coordinate and equal in their constitutional spheres" (Wheare 1964), power is divided between a central, national government and sub-national units. Because of constitutional division of powers yet interdependence, federal systems tended to be "welfare laggards" and are oriented toward conservative policy outcomes (Chappell 2001). As well, federalism "...tends to organize issues and conflicts of territoriality into politics, while organizing out issues and conflicts that are social in nature" (Hueglin and Fenna 2006, 38). For women, public policy developments that can address their poverty, the lack of affordable housing, quality child care, and social assistance programs that provide a decent standard of living, are difficult to achieve. Debates within the confines of federal-provincial negotiations become about who pays, rather than why women

confront systemic discrimination, and how certain policy action can alleviate or eliminate women's distress.

Moreover, understanding the dynamics and politics of federalism, and the institutions which buttress these macro structures, can provide to the progressive women's movement with ideas and strategies to achieve political aims. Federalism in Canada is a reality; it is a deeply embedded set of institutions and politics. Women's movement organizations and feminist activists must come to grips with the influences of federalism, and how the machinery of the bureaucracy perpetuates women's inequality in order to savy about how to mount effective and sustained strategies for change.

As well, there are clear indications that the current Conservative government's agenda of "open federalism" has furthered "flexible federalism" put in place under Liberal dominated governments during the mid to late 1990s. This era of federalism has driven a wedge in between the two levels of government inhibiting the development and funding of public policies that will attend to women's socio-economic realities. Open, flexible, federalism has derailed the development of comprehensive governmental responses to women's policy demands and policy needs, and has made women's policy advocacy all the more arduous.

Feminist-institutionalism tightens the analytical trajectory by interrogating conventional understandings of what constitutes an institution, and hence, political practices and policy outcomes. We begin with an argument for feminist-institutionalism as a method of political analysis. This leads to a discussion of some of the predominant elements of Canadian federalism, along with gender insights. Feminist-institutionalism is then applied to analyse child care policy debates which took place during the Social Security Review between 1994 and 1995 and the 1999 Social Union Framework Agreement. These two policy events were selected because they were defining moments in re-structuring the social safety net, and because they have set in place a neo-liberal politics that has had lasting consequences to the feminist policy agenda. Moreover, the SSR and SUFA are connected policy events. They offer very good examples of how federalism framed policy discussions toward flexible, decentralized intergovernmental relations and how actors within particular government institutions facilitated or obstructed policy outcomes.

Why Feminist-Institutionalism?

As a method of policy analysis, variants of new institutionalism provide theoretical and conceptual encouragement to feminist policy analysis and investigations of women's interface with federal and provincial governments.

As a starting point, new institutionalism directs analytical attention away from global conceptualizations of the state to the myriad institutions, agencies and bureaus that comprise the "state" (Coleman and Skogstad 1990, ix). Through disaggregation, the analyst has methodological room to analyse the multiplicities of what constitute the

“state” in Canada – federal and provincial – as well as the differential impacts of institutions within the bureaucratic hierarchy of these constitutional entities and how they relate to each other.

Moreover, by situating institutions as the key analytical variable, institutions are understood to have transformative power – they can influence the preference formation of actors. As Louise Chappell notes, new institutionalism is keenly interested in “...examining the way institutional arrangements shape political behaviour” (2002a, 8), although André Lecours reminds that new institutionalists agree over suggestions that institutions can be easily manipulated by actors (2005, 8). The point remains, however, that institutional rules, practices and value systems, both formal and informal, influence and often constrain behaviour.

This variant of new institutionalism is referred to as historical-institutionalism because it both attends to the consequences of policy trajectories and the ways in which institutions mediate politics. However, as Sven Steinmo and Kathleen Thelen point out, historical institutionalism does not rest on the assumption that institutions are the “sole cause” of political outcomes. Indeed, it is a perspective that accounts for the “...broad political forces that animate various theories of politics”, such as class or gender structures (Thelen and Steinmo 1992, 3). Historical institutionalism, then, is an approach that has been highly productive in reminding analysts that institutions are embedded in a particular socio-political environment. Historical institutionalism has also been useful in highlighting how past choices often hinder future policy and program reforms or institutional change (Wilsford 1994, 251-283). Path dependencies are of particular interest to groups within civil society who challenge state action or inaction or who demand changes to current public policies. Policy and institutional inertia pose a formidable challenge for women’s groups, who not only advocate policy reform, but also wish to contribute to a rewriting of history that counters accepted codes of behaviour and institutional practices.

Gendering Institutions

That said, new institutionalism does not theoretically consider institutions to be gendered, nor does the approach empirically analyse federalism or the institutions of government as perpetuating gendered power relations. Moreover, as feminist activists and academics alike have strongly argued, the “state” – as an idea and a regime – cannot be neglected. Just as the state structures women’s socio-economic realities, the institutions of government perpetuate women’s inequality.

To move toward a feminist-institutional analysis, critical literature in the field of organizational analysis and public administration offers valuable insights into analyzing institutions through a feminist or gender lens (Ferguson 1984; Swiebel 1988; Acker 1990; Acker 1992; Goetz 1992; Grant and Tancred 1992; Staudt 1997; Stivers 2002). This literature draws our attention to definitions of what constitutes an “institution” and why institutions often matter *differently* for women. Let’s begin with unpacking the concept

of institution. Taken from mainstream new institutionalism, an “institution” is generally defined as:

...configurations or networks of organizational capabilities (assemblies of person, material, symbolic, and informational resources available for collective action) that are deployed according to rules and norms that structure individual participation, govern appropriate behaviour, and limit the range of acceptable outcomes (Atkinson 1994, 6).

From both a methodological and theoretical perspective, bringing feminist theorizing to this understanding of institutions, however, critically unravels conventional understandings of institutions. Through a gender lens, we can begin to conceptualize institutions as “...instruments of social organization that exercise collective power over a number of generations” (Vickers, Rankin and Appelle 1993, 133-134). From a feminist point of view, collective power is understood to be stratified by gender, sex, sexuality, race, and economic status and is unevenly distributed within society and the economy. In part, this power is embedded in bureaucratic rules and practices located in institutional sites within the state. Informational resources, and norms that structure individual participation and behaviour within institutions, are gendered. Here, gender is understood in terms of the work of Joan W. Scott’s two propositions: that “gender” is a constitutive element of social relationships based on perceived differences between the sexes, and gender is a primary way of signifying relationships of power (1986, 1067). To argue that a policy outcome is gendered refers to the way in which “...advantage and disadvantage, exploitation and control, action and emotion, meaning and identity, are patterned through and in terms of a distinction between male and female, masculine and feminine” (Acker 1990, 146). A “gendered institution” means that gender is present in the “processes, practices, images and ideologies, and distributions of power” within that site (Acker 1992, 567). Norms and values within institutions shape the behaviour of actors buttressed by “...well-defined guidelines about how men and women should act and the value that is ascribed to masculine and feminine behaviour” (Chappell 2002a, 11). These differences and distinctions, however, are not always transparent.

Anne Marie Goetz argues that the “institutional failure” of public bureaucracies to attend to women’s experiences and social realities may in part be explained by the traditional “technicist” basis of bureaucratic organizations. That is, the practices and internal cultures of these organizations rest on gender neutral principles of merit and assumptions that “neither the sex of bureaucrats, nor of policy recipients, makes a difference to the objectives of policy, to the ways policies are implemented, or to the ways in which the interests of men and women are institutionalized in public administration” (Goetz 1992, 6). And often the interests of women, Nancy Fraser would argue, become depoliticized within bureaucratic structures due to “expert needs talk” or administrative discourses that translate politicized needs into manageable needs or as we often refer to it, social services. Once in the administrative surround, for example, women’s “need” for child care becomes decontextualized from the social and recontextualized within the bureaucratic confine. As a result, expert redefinitions “reposition” the needs of the people in question into individual, managed “cases” rather

than as “members of social groups or participants in political movements” (Fraser 1989, 179). Expert needs talk is often shaped by “key words” that come to be critical in the definition of social reality and policy discourses (Fraser and Gordon 1994, 4-31).

Moreover, women’s “need” for policy responses, such as child care, when embedded in the confines of intergovernmentalism, become much more about who pays for child care and who’s responsible, rather than about women’s socially subscribed role as the primary care giver which has had lasting and structural impacts on their ability to be economically and culturally independent (Vickers 1994). Federalism not only obscured women’s social and economic realities, it obstructs policy development.

These discourses and practices are enduring. Theories of bureaucracy and public administration explain this durability by suggesting that policy developers apply certain terms and categories to maintain the universal formulation and implementation of public policy which serve to maintain the legitimacy of administrative experts in liberal constitutional democracies (Stivers 2002, 41-50). By doing so, bureaucratic objectivity is ensured so that the state acts as a neutral arbiter and so that subsequent public policies apply equally to individual citizens. In the rational-legal bureaucratic context of the liberal state, practices and policy language are assumed to be uncomplicated and unproblematic.

Many feminists, however, argue that the state does work to the benefit of certain interests and that the objective rational-legal bureaucratic context *is* highly problematic. They offer their own explanation, arguing that language, in and of itself, must be challenged since it is not a “...neutral and transparent means of representing reality...rather, language is assumed to codify an androcentric world-view” (Ehrlich and King 1998, 165). The feminist project highlights the point that it was men of a particular capital class who had control over “naming” and therefore the institutionalization of “meaning” within institutions. Language, then, becomes one expression of gendered social relations which are conveyed by political and policy institutions, subsequently framing public policies. Over time, the overt reasons for the sexist and discriminatory aspects of public policy are sometimes forgotten. The language and meaning, however, persist often under the guise of a gender-neutral, ostensibly objective policy language. Yasmeen Abu-Laban and Christina Gabriel found, for instance, that the selection model for new immigrants is highly gendered, and even sustains female dependency, although it is “...not the result of overt discrimination on the basis of sex but rather the way in which rules, regulations, and practices produce different outcomes for men and women” (2002, 50). One example they demonstrate is how the points system (which determines whether a person is admitted into Canada as an immigrant) takes into account particular types of occupational experiences which when gendered are revealed to favour men’s employment histories and educational backgrounds (in the public sphere) rather than women’s.

Moreover, even though a feminist-institutional approach unpacks the institutional elements of the federal and provincial states, we cannot and must not abandon understanding the state from a feminist perspective, especially in consideration of

Camilla Stivers' argument that institutions are situated in a modern administrative state which is:

wholly separate from something called the private sphere – we must ask what is obscured as a result of constructing the defending this firm boundary. The public-private distinction has served historically to maintain the perception that there is a clear line between government and business and to justify a realm in which “man” is protected from government interference in his activities. At the same time, the public-private dichotomy has been used to distinguish the household from both government and business activities. Neither distinction has served women well; rather, both have covered up women's needs and made them theoretical anomalies (2002, 34).

The institutionalization of the public-private divide which has constructed the so-called “private women” and “public man” decontextualizes and often defines out women's political and socio-economic realities from the policy processes within the state and within the principles and the practice of federalism (Ibid., 36). We now turn to this discussion.

Contesting Canadian Federalism

During the Confederation debates, which took place in the 1860's, there was considerable deliberation and negotiation over what form Canada's newly fashioned governing structures would take. Federalism, an idea borrowed from the American experience just South of the border, was advocated as the great compromise between two well-established linguistic communities, the Anglophones of Canada West, and the Canadiens (Francophones) of Canada East, and the viable political entities of New Brunswick and Nova Scotia. Of course, during these debates there were disagreements and dissatisfaction. The leading statesman and Canada's first Prime Minister John A. Macdonald, preferred a highly centralized regime, confident that the provincial entities would eventually fade away.

Unlike the constitutional journey of Australia, women's voices were entirely absent during the Confederation debates in Canada (Sawer and Vickers 2001, 6-15). In their comparative analysis of early constitution-making in these two countries, Marian Sawer and Jill Vickers put it this way:

Women have usually been absent from constitutional discourse, whether in its legal, academic, or popular forms. Countries have founding fathers, it seems, but rarely founding mothers (2001, 2).

The principles upon which federalism was established, and the constitutional division of powers as set out during the founding era, have had a lasting impact on the socio-economic realities of women in Canada. Political compromise set in place a constitution and division of powers between the federal and provincial jurisdictions

which ensured a measure of centralized power, while also ensuring the expression of local autonomy. Asymmetrical features of the constitution, further underpinned autonomy.

Local autonomy has worked to the advantage and preference of the feminist movement in Quebec.¹ For women in English Canada, however, policy areas crucial to women's equality were in the hands of jurisdictions with less fiscal strength and policy clout. The federal government was empowered with responsibility for the military, monetary policy, and other issues of national concern, while provincial jurisdictions were given responsibilities over all matters of a "local nature". Several areas were deemed shared jurisdiction (immigration and agriculture). This is significant at the time of Confederation, since women's lived realities were significantly shaped by the politics at the local level. That is, women were domestic workers, teachers, sex-exploited workers and unpaid caregivers, wives and mothers situated in the private, domestic home with little or no access to state developed programs. Indeed, women were largely alienated from the political discourse and political agenda within provinces, and were not even considered legal "persons" who could rightly hold public office until 1929.

The federal government, however, was given extraordinary powers to legally intervene in provincial policy areas through the use of the so-called spending power, buttressed further by the ability to make policy for the "peace, order and good government" of Canada. Because of these centralizing features of the *British North America Act, 1867*, federalism scholar K.C. Wheare characterized Canada as a quasi-federal state. As the federation developed, provincial Premiers becoming much more assertive in both protecting and exercising their constitutional powers and provincial policy jurisdictions under their domain became crucial to the well-being and prosperity of citizens and to the nation (e.g., education, health care, social services, child care). This worked to the benefit of women during welfare state development, although social assistance programs were needs-based, welfare-oriented and provided minimal support.

More or less since Confederation, federalism in Canada has been practiced and cast in terms of interdependence between the two levels, or as "...the art of accommodation taken to the level of a principle of government" (Peach 2007, 3). Of course, accommodation (labeled at times as collaborative or co-operative federalism) has not always have been achieved. There have been fractious debates and eras of "conflictual federalism" (e.g., mega-constitutional politics during the 1970s and 1980s which patriated the constitution and brought in the Charter of Rights and Freedoms). Seeking accommodation has, nonetheless, been a defining element of Canadian federalism. A seminal example was post-war welfare state development. During this era of collaborative federalism, the federal spending power enabled the central government to fund the implementation of national policy in the social assistance sector across provinces through the federal Canada Assistance Plan (CAP) introduced in 1966. With the rise of neo-liberal policy agenda which began in the mid-1990s, however, the federal

¹ The feminist movement in Quebec, a participant in provincial state-craft and nation building, have preferred to work through the Quebec government rather than focusing their advocacy attention toward building national policies through the federal government.

government dismantled CAP, dramatically cut transfer payments to provinces, and now prefers to go the route of decentralized federalism through the provision of unconditional block grants to provinces. During the era of the Liberal party under Jean Chretien, this form of intergovernmentalism was part of the government's overall strategy. As then Minister of Intergovernmental Affairs, Marcel Massé this strategy was put in place, to "demonstrate that federalism, in Canada, is a very pragmatic and flexible system of government" (Massé 1995, 6).

During the last three decades or so, accommodation has often been sought through interstate federalism, or executive federalism, referring to one-to-one meetings of Premiers and the Prime Minister or meetings between Premiers (executive inter-provincialism). Since the 1970s, executive federalism has become a much more predominant feature of federal-provincial-territorial relations, given this was an era of conflict between the federal and provincial governments, and arguably because political elites sought a way to come to an unencumbered, negotiated settlement on pressing policy issues. Other factors have been at play as well, including the deferential nature of Canadian political culture and Canadians' acceptance of being governed by elites, the rise of constitutionally strong provinces and our parliamentary form of government which tends to centralize power in cabinet (Brock 2003, 69-70). Executive federalism, however, has not been without its detractors. Executive-dominated government has been criticized as elitist, closed and unrepresentative (Ibid., 67) leading to calls for the implementation of "legislative federalism" to allow for parliamentary committee oversight of negotiated agreements (Simeon and Cameron 2002, 292).

From this admittedly brief overview of federalism, we can begin to build a framework of analysis. Inspired by the work of Kim Rubenstein (2006), we can unravel Canadian federalism as containing two broad, although intimately linked, aspects. The first aspect is the **principles** or values which underpin Canadian federalism. Here we focus on political accommodation. The second aspect is the **practice** of federalism, which includes executive federalism, and intergovernmental relations to highlight the importance of the multiple policy processes which unfold and become institutionalized within the public administration of the state.

The principle and practice of federalism have been problematic for women. Canada is decidedly a territorial federal system, with policy jurisdictions divided between two quite powerful levels of government each keenly protective and cognizant about making themselves relevant to their constituents. The principle of accommodation is defined and constructed through this lens. Provinces and the federal government are the accommodated actors; citizens are the indirect beneficiaries. Territorial accommodation has become the conventional frame of reference and the accepted political discourse. Moving beyond these ideational confines is a challenge for the women's policy agenda. Federal government elites have been, and largely still are, preoccupied with accommodating provincial concerns (often to keep Quebec in the constitutional "family") to the detriment of inclusion of policy communities and alternative policy prescriptions. Within this dynamic, provinces are often seeking more federal funding through transfer payments to implement their political priorities.

The institutions and policy development processes which have emanated from federal-provincial accommodation have meant that federalism is one of the structural barriers women push up against in their efforts to shift the political agenda (Vickers 1994, 141). This is a grave challenge to women's equality. As Linda Trimble succinctly put it, the "policy demands of the women's movement do not fit neatly into jurisdictional boxes" (1991, 87). Moreover, divided policy terrains are further entrenched when provincial and federal governments engage in a politics of blame avoidance. That is, provinces are able to publicly charge they do not have enough financial resources from the federal government to mount programs of import to women, while federal government authorities defend their actions arguing that the policy field is provincial jurisdiction. Substantive policy developments in child care, to name only one policy sector, have suffered from this type of political obstruction.

Executive federalism too is troublesome. Agreements between the central government and provinces are hammered out in private, elite accommodation sessions with no public involvement, no media scrutiny and surely no gender critique. To be sure, ministers of line departments, depending on the issue, are included; ministers responsible for the status of women are not, or women's policy agencies simply uphold the government agenda. Let us now turn to our two case studies.

Social Security Review – Child Care Policy

On February 8, 1994, the House of Commons directed the Standing Committee on Human Resources Development to make recommendations to modernize and restructure Canada's social security system. The Standing Committee's work was organized into two phases: the first wave entailed consulting with Canadians on their "concerns and priorities" regarding the social security system in order to produce an interim report. In his opening remarks to the Standing Committee in February 1994, Lloyd Axworthy, then Minister of Human Resources Development Canada (HRDC), stated that the objectives of the Social Security Review (SSR) were to address: the changing nature and "very difficult" needs of children and families; the question of young people and their transition to from school to work; the re-employment of working age adults; the independent living movement; and the issue of social assistance and how incentive-based systems can help individuals find employment (Canada, House of Commons 1994, 1:22-23).

During the first phase of the Social Security Review, which took place from February to March 1994, the Standing Committee received approximately 200 briefs presented at public hearings. The interim report, *Concerns and Priorities Regarding the Modernization and Restructuring of Canada's Social Security System* (the LeBlanc Report), was tabled on March 25, 1994. During the second wave of the review, which began in November 1994, the Standing Committee traveled across Canada with the government's Green Paper in hand which had been released on October 5, 1994. The Green Paper, *Improving Social Security in Canada: A Discussion Paper*, outlined the government's recommendations for change, set within three broad themes - work,

learning and security (Canada 1994a). The Green Paper received substantial media and public attention. The Standing Committee received over 1,000 submissions, reportedly hearing from more than 100,000 Canadians (Rice 1995, 43-44). The final report of the Standing Committee, *Security, Opportunities and Fairness: Canadians Renewing Their Social Program*, was released in February 1995 offering 52 recommendations for improvement (Canada 1995, 251-292, 293-309).

The SSR was initially welcomed by the National Action Committee on the Status of Women (NAC), Canada's leading national feminist organization, albeit with cautious optimism, given the review was being conducted amidst the government's deficit reduction strategy (NAC 1994a, 1). Four inter-related policy strategies framed SSR discussions: 1) deficit reduction, 2) economic competitiveness, 3) partnering with provinces and constituent groups and 4) individual self-reliance. In the first instance, the February 1994 budget delivered by the Minister of Finance, Paul Martin, made it well known that the SSR would have to adhere to firm "savings parameters", most notably in terms of reforming the unemployment insurance system and transfer payments to the provinces (Battle and Torjman 1995, 6). These comments were made in the context of significant increases in the cost of the unemployment insurance (UI) system. According to an SSR supplementary paper, the UI program cost had grown from \$7.3 billion in 1972 to \$19.7 billion in 1992 (Canada 1994, 6).

Competitiveness, the second policy strategy, was neatly tied up with the need to shore-up economic growth and job creation, once again articulated by the Department of Finance's economic strategies. The Green Paper echoed Finance's position, stating that government policies had been slow to respond to technological, economic and social change and that in order to help "drive economic growth", more investment, both inside and outside of Canada, were key to ensuring the creation of jobs (Canada 1994a).

The third strategy framing the SSR and the Green Paper was the government's goal to be more respectful of provincial jurisdiction in certain policy areas, such as education and social assistance. The policy language in the Green Paper made it clear that the federal government work toward building collaboration and partnerships with the provinces and territories to simplify access and minimize duplication of services. Forging partnerships with Canadians was also a goal of the government's review of social programs, stating that Canadians too had to come up with "solutions" to securing Canada's future. Part of those solutions included reforming the existing UI system to reduce "dependency", thereby encouraging each Canadian's "mutual responsibility" to "...help themselves" (Canada 1994a, 25).

In child care, the federal government had made use of their spending power to reach into this provincial jurisdiction. In 1971, the federal government introduced the Child Care Expense Deduction, a provision of the *Income Tax Act*, allowing families with children to deduct some of the work-related child care expenses, and in 1993, the Child Tax Credit was introduced. As well, the federal government has made funding available to provinces via the CAP, which enabled the federal government to cost-share with the

provinces social assistance program and funding for social and welfare services, some of which was placed to build child care in the provinces.

As for child care, NAC noted that they were pleased with the Liberal government's attention to child care. The Green Paper outlined that Canadians needed ways to reconcile work and family, while the Supplementary Paper on child care went even further stating that "good" child care had to address accountability, quality, affordability and availability (Canada 1994c). These principles reflected those long advocated by NAC, although NAC reminded the Standing Committee that some assurance had to be given to the development of a comprehensive *non-profit* child care system and national program given its importance to eradicating women's poverty and enabling women to enter the paid labour force (NAC 1994, 7).

The federal government's commitment to developing a national child care framework, however, was ultimately framed around reconciling work and family and promoting healthy child development rather than women's economic independence or women's equality. Moreover, success on this front hinged on entering into partnerships with interested provinces and territories, which at that juncture of the SSR, was yet to be determined and seemingly, entirely left off the table.

Dissatisfied with the tone and tenor of the SSR, feminist social policy principles were presented to the Minister of HRDC in a "national women's consultation" held in Ottawa from December 3-5, 1994, which brought together over 80 women's groups to discuss proposals contained in the Green Paper. The message to the Minister was clear - women's equality had to be a central goal of the SSR. The meeting, however, ended acrimoniously, after Sunera Thobani, then president of NAC, informed the Minister that proposed changes to the *Unemployment Insurance Act* would violate the Charter of Rights and Freedoms since lowering benefits for repeat users, many of which were women, clearly contravened the equality section of the Charter of Rights and Freedoms (Winnipeg Free Press 1994, A4). This left relations between the Minister and NAC strained and NAC all the more sceptical about the legitimacy of the review.

Status of Women Canada (SWC) did not assume a direct role in the SSR policy debates, although Sheila Finestone, the Secretary of State of SWC at the time, pointed out to Members of the House of Commons, the social and economic disadvantages women faced and the need to take women into account during the review (Hansard 1994a, 659-662 and Hansard 1994b, 7108-7111). Her statements, however, were framed in full support and acceptance of the government's policy objective to ensure the "sustainability and affordability" of government programs such as UI (Hansard 1994b, 7108). SWC did facilitate, however, women's participation in the SSR by organizing a teleconference between 18 women's groups and the Minister of HRDC in October 1994 (Status of Women Canada 1994, 4).

On the other hand, the Canadian Advisory Council on the Status of Women (CACSW) was quite critical of the Liberal government's proposals, taking on the role of defending women's rights and supporting the policy goals of NAC. And the CACSW

was well situated to do so, since they were included on a Ministerial Task Force struck by Lloyd Axworthy to provide direct advice to him and senior civil service officials involved in the SSR. In a 57-page detailed brief submitted to the Task Force, the CACSW fervently recommended that the SSR, in order to be effective and legitimate given the government's commitment to women's equality, had to be analysed within a gender sensitive framework that included, among other things, taking sex into account as an important variable. Here, the CACSW pointed out that the conceptual framework chosen by the government simply attended to three "populations" - youth/children and families and working age adults. Women were absent from this framework rendering their experiences as policy recipients invisible as individuals within the private sphere of the family or as a degendered "working parent". CACSW further urged the Task Force to disaggregate and analyze the data by sex prior to the development of policy options and beware of androcentric frames of reference (Canadian Advisory Council on the Status of Women 1994, 3). This would have required a feminist approach to policy analysis, rather than a gender-impact study.

To provide an opportunity for wider public participation in the SSR, the CACSW published a number of research notes in November 1994, written by various feminist activists, assessing the policy proposals and the potential impacts on women outlined in the various Supplementary Papers released by HRD. Two research notes specifically analysed proposals having to do with child care and unemployment insurance. The Supplementary Paper on child care was considered to be "impressive" in its analysis of the key issues that affect quality child care, yet disappointing since it did not commit the federal government to assuming a strong leadership role in the development of a child care system (Peters 1994, 1 and 5-6).

As for policy outcomes of the SSR, on the child care front no *new* policies or legislation were developed. The Canada Assistance Plan (CAP) was eventually dismantled replaced by the Canada Health and Social Transfer (CHST). This substantially changed the social policy context and government spending priorities. Following a commitment made by the Liberal Party in the *Red Book*, the federal government eventually promoted the idea of a national child care strategy in 1995, dependent on provincial-territorial agreement. This attempt ended in failure after agreement could not be reached. It mattered that provinces were not included more substantively during the SSR policy discussions.

The SSR is an interesting case study in dissecting the role of the institutional policy process from a gender perspective. The first of these dimensions was the policy language that framed SSR debates. In Lloyd Axworthy's opening remarks to the Standing Committee, and throughout both the Discussion Paper and SSR supplementary papers, there was marginal mention of women. Beyond disaggregating data by sex to indicate say, the number of women in the work force, there was no attempt to analyze the impact of policy on women. More often than not, universal, de-gendered terms blanketed differences between men and women, gender divisions in the labour market and women's participation and experience with government programs. Rather than referring to the disadvantaged position of women, and how public policies often have

differential impacts on women, women were treated and talked about as “Canadians”, “individuals”, “family members”, “clients” or as “working age adults”, especially apparent in the Green Paper. This framework of analysis and policy language rendered women invisible, transforming their experiences as being non-existent which was noted by CACSW in their Brief to the Ministerial Task Force.

Moreover, the Finance Department’s deficit reduction and economic strategy had two obstructionist and transformational effects. First, the neo-liberal discourse evolving around deficit reduction, individual self-reliance and building federal-provincial partnership in the development of certain social policies, clashed with NAC’s policy goals centred around the need for government intervention (and importantly, collaboration between the two levels) in the development of national policies. The oft-cited need to reduce over-lap between the levels of government, and respect policy jurisdictions, obscured the reality that the federal government was increasingly pulling out the provision of funding social and economic programs, as well as removing conditions on how provinces were to spend transfer payments.

Another dimension was how women’s policy agencies (WPAs) participated. SWC took on a facilitative role by encouraging Members of Parliament to think about women during the SSR and by organizing a meeting between women’s groups and the Minister. SWC, however, did not mount a counter-voice to the prevailing debates and framework of the SSR, nor did they offer any critiques of the Green Paper’s policy proposals. The CACSW, on the other hand, assumed both a counter-voice and a critical role in the public realm. In what appeared to be an alliance, CACSW and NAC offered similar viewpoints about the SSR, notably that a feminist or gender analysis had to be part and parcel of the review’s framework. The CACSW’s position as an “insider” participant on the Ministerial Task Force provided the opportunity for a feminist voice to be directly interjected at the Ministerial level. The presence of two WPAs who advocated differing if not contradictory policy proposals may have in the end worked against NAC’s policy agenda, since the government could easily make the case that they listened to women, and responded accordingly, while also being able to ignore policy proposals that contradicted their own.

An interesting product of the SSR was that the Final Report, *Security, Opportunities and Fairness*, which challenged women’s traditional gender roles and differences between men and women much more substantively than had previously been the case during the SSR. In fact, one section of the report, called “securing equality”, emphasized the importance of promoting women’s equality. A further recommendation was that the SSR be subjected to a gender analysis to “...ensure women’s increased and equal social and economic participation in the paid labour market” (Canada 1995, 100). The inclusion of a gender analysis in the final report indicated that NAC may well have had some influence. The Final Report used fewer de-gendered categories, such as “worker”, and included a discussion about the structural discriminations women encounter due to violence, low pay, unpaid household caring and poverty as an outcome of divorce or as lone parents. The gender analysis overall, however, was minimal and far too late in the process. Recasting the SSR policy debates into gendered terms as outlined

in the Final Report, however, fell on deaf ears. Once the dust settled post-SSR, NAC's recommendations to the Standing Committee and the Minister of HRD had been transformed - that is they were ignored or redefined. The governing environment too had dramatically shifted with the federal government retreating from the social policy sphere in both funding levels and retreating from setting conditions on how the funds were to be spent by the provinces. These actions set the stage for a dramatic realignment of federalism.

Social Union Framework Agreement

The Social Union Framework Agreement (SUFA) was agreed to in 1999 by all provinces and territories except Quebec. SUFA came of the heels of strong criticism and anger from the provinces to the unilateral action of the federal government. It began with the deficit reduction program put in place as part of the Social Security Review, most particularly when the CHST was announced in the February 1995 budget. The CHST collapsed all transfer payments (except equalization) into one block fund, while also significantly decreased transfer payments to provinces from \$17.5 billion in 1994/1995 to \$13 billion in 1996/1997. As a political accord, SUFA was part of a process to rebuild co-operation between the two dominant levels of government, and to reconstruct a new "social union" (Biggs 1996) for Canadians. The agreement identified three priority areas: health care, post-secondary education and social assistance.

The first section of the agreement outlines the principles of SUFA, which include the "fundamental values" of equality, respect for diversity, fairness, individual dignity and responsibility and mutual aid. The second section concerns mobility rights of Canadians, and the third section stipulates accountability measures. The following three sections deal directly with federal-provincial-territorial relations stipulating a commitment to work in partnership to improve social programs and to clarify the role of the federal spending power. This part of the agreement also sketches out a dispute resolution process. The last section specifies that a review of the SUFA will take place after three years with all parties using comparable indicators to track progress. A Ministerial Council was created to support ministers in collecting data and receiving reports from the provinces.

One of the commitments of SUFA is to respect the equality rights of "all Canadian women and men and their diverse needs" (Canada 1999). The agreement also stated that federal and provincial governments were to work in partnership with "individuals, families, communities, voluntary organizations, business and labour" so that Canadian could have meaningful input into social policies and programs. After years of deficit reduction, many Canadians feeling the pinch so SUFA was welcomed by some social policy advocates. The National Council of Women of Canada supported the principles (2002) and feminist activists with NAC, Barbara Cameron and Judy Rebick, (former President of the organization), felt it was a step forward since a provision of SUFA stipulated that the federal government could develop "new initiatives" with agreement of a majority of provinces – six rather than the full ten. As well, a concrete

policy outcome was tracking the implementation of the new National Child Benefit, a federal program targeting child poverty. Developed just prior to the signing of SUFA, the NCB received substantial federal funding, \$15 billion between 1998 and 2004 (Bakker and Brodie 2007). This was followed by the Early Childhood Education Development Agreement.

There were criticisms, however, and from a gender perspective, they had (and have), a significant impact on the lives of women. Under the guise of renewing Canada's social union, SUFA was more about agreeing to the further decentralization of the federation, in conjunction with a preference on the part of some provinces to reign in the federal spending power. Moreover, as Greg Inwood rightly indicates, SUFA was part and parcel of the implementation of new public management within the public administration of the federal and provincial governments. That is, the implementation of private sector management principles to instill within the public services (and Canadians) an ethos of efficiency, smaller government (state steering rather than rowing), accountability and transparency through performance measurement and citizen empowerment. The context of the negotiations to reach a deal also must be taken into account regarding the predilection of some of the provinces to privatize public services, to remain autonomous in their provincial domains and have the freedom to go their own way (Inwood 2000, 133-136).

For example, funds transferred to provinces as part of the National Child Benefit could be clawed back from payments to social assistance recipients. In Manitoba, however, under the government of the social democratic (albeit Third Way) New Democratic Party, the claw back has now been fully eliminated. Moreover, the Early Childhood Education Development Agreement, which had additional monies directed to provinces to build early childhood learning capacities, was spent by provinces on an array of items, sometimes marginally connected to the goals of the agreement (Bakker and Brodie 2007). Indeed, Armine Yalnizyan reported that, based on her gender analysis of federal budgets, provinces and territories spent only eight percent of the 2000-2001 funds on expanding regulated child care spaces (Ibid.). In the social services sector, just after signing SUFA, British Columbia implemented a highly restrictive social services (reducing benefits by 25 percent), and cut a number of programs such as child care allowances.

As well, SUFA offered very little in the way of setting up processes or institutions for citizen engagement. First, the development of SUFA was undertaken within a highly closed, elite system described as Greg Inwood as an "amalgam of cooperative and executive federalism" (Inwood 2000, 130). To be sure, there was reporting on the implementation of various aspects of the agreement (indicators on how many Canadians received the National Child Benefit for example) as stipulated in the agreement, and organized civil society groups were asked to participate in the three-year review. They did so, however, through the Ministerial Council, a quite formal, highly managed process with identified groups receiving letters and invitations to make submissions. There were no in-person consultations nor community-based methods put in place to reach women and women's groups.

Second, in their submission to the Ministerial Council, The National Council of Women of Canada (NCWC) pointed out that not enough time was given to non-governmental groups to substantively respond. They further suggested that the next review be broadened to include a wider array of government agencies including Status of Women Canada (so they could share their policy experiences and expertise) and that advertising the review process had to be much more public, with announcements made in local newspapers, radio stations, on web sites, even in utility bill mail-outs (National Council of Women 2002, 10-11).

Overall, most social policy observers would be of the mind that SUFA did not live up to its promise. This is largely the case. What has been “successful”, however, has been the normalization of a highly decentralized federal-provincial relationship, and ironically, a highly managed and bureaucratic social policy regime.

Open federalism, the vision of federal-provincial relations as advocated by the current Conservative Party government elected in January 2006, has even furthered entrenched the decentralization/new public management elements of SUFA, although not within the discourse of social union. In an April 2006 speech given in Montreal, the Prime Minister outlined his government’s vision beginning with congratulating the founding fathers for building a “flexible federal system” (Conservative Party 2006). He went on to outline this vision, which consists of three specific components: taking advantage of provincial and territorial expertise, respecting provincial jurisdiction and limiting the use of the federal spending power. In the words of Stephen Harper:

That’s what open federalism is all about – a stronger Quebec in a better Canada – and that is what this new national government intends to deliver. Open federalism does not seek to play favorites or stir up jealousies. The time has come to establish a new relationship with the provinces – a relationship that is open, honest, respectful (Ibid.)

This vision, however, only serves to further marginalize women from the policy process and the political system. Eras of conflictual federalism at least produced a modicum of policy responses. Women’s groups were successful in having the equality section inserted into the Charter of Rights and Freedoms. Under the Conservative government, adherence to a strict understanding of the division of powers, coupled with a low-key approach to intergovernmental relations – and the selective use of the federal spending power (Teliszewsky and Stoney 2007, 39-40) in accommodation in the extreme. This has had the effect of situating the progressive women’s agenda in an inhospitable political space and constrained women’s ability to exercise their full social citizenship. Mobility of women will be restricted, given the way in which differing provinces are taking advantage of their autonomy to develop social assistance regimes to suit their particular interests. At the federal level, we have further evidence of women’s marginalization. Once in office, the new government scrapped the Liberal national child care plan, for a monthly payment directly to parents (so-called “choice in child care”). The Prime Minister has also removed “advocacy” from the Status of Women’s mandate, cut the

agency's budget, and is attempting to disband the Court Challenges Program which enabled women to challenge, and sometimes strike down, discriminatory laws through the Charter.

Conclusion

As Louise Chappell and Gwen Gray remind, federalism sometimes obstructs policy developments, but it can also facilitate (2001; 2006). In Canada, we see this dynamic playing out. Federal structures have acted as a barrier, they have even obscured the feminist policy agenda, but they have also facilitated some public policy outcomes that have benefited women. Louise Chappell further argues that when considering the consequences of federalism for women and how the organized feminist movement navigates multi-level governing structures, the analyst must be aware of how other institutions in the political jurisdiction mediate or interface with federal structures. In Canada, the interplay between the Liberal party, espousing social liberal values, were allies of the women's movement in building the welfare state, in creating women's policy agencies, and in attempting to develop a national child care system.

As well, the two case studies indicate that federal structures offer some opportunities to engage in substantive social policy dialogue. NAC took part in the SSR debates, facilitating a feminist policy review which brought together a wide array of women's groups from various provinces – something not achieved since – and was seemingly able to have a gender analysis included in the final report.

Federal structures have provided provinces room to manoeuvre in developing policy and institutions that suit their local realities. As noted, the federal spending power has allowed provinces to build their policy repertoires and administrative apparatuses. Federal structures have provided two access points for policy advocacy to women's groups, although this has proved to be a financial drain of groups with vulnerable resources. Moreover, "flexible federalism" paved the way for provinces to go their own direction, and in Manitoba, this meant eliminating the NCB claw back to social assistance recipients, a majority of whom are women (Grace 2006). It matters, however, that in Manitoba a social democratic party was in power (Ibid.).

However, the general picture here is that the principles of accommodation and the practice of federalism have lead to a governing system which does not recognize that it is women who are Canada's poor (with Aboriginal women even poorer); that it is women who are often trapped in low-wage, non-career building service sector jobs; and that it is women who are the caregivers of our children and families. Accommodation through flexible, open federalism has in many ways, re-instituted the separation of the private and the public, framing Canadians in degendered terms – they are workers, parents or residents of provinces. Open federalism is closed to women.

We have been able to understand this evolution from a gender perspective due to applying a feminist-institutional approach to political analysis. New institutionalism

offers much to the feminist project. The approach directs the attention of public policy analysts and activists in the women's movement to wrestle with how the institutions within the bureaucratic hierarchy frame policy, and manage the public policy process. It is an approach which highlights the interface between civil society actors and government officials and it deconstructs global conceptions of the state to direct conceptual attention to how institutional imperatives differ across the bureaucracy and across policy sectors. It does, however, while maintaining a conceptual link to how, and why, the state acts as it does.

A feminist-institutional framework radically nuances policy analysis. Feminist-institutionalism reveals a pathway to reconstruct a feminist understanding of institutions as containers and perpetrators of gendered social relations. Feminist-institutionalism also focuses attention to the way in which policy language and meaning are devised within a bureaucratic and administrative lexicon which often hides, detracts or ignores the diverse realities of women. This is significant, since without a gendered or feminist understanding of the state, institutions and policy development processes, public policies are not able to attend to women's socio-economic discrimination. Moreover, without the interjection of feminist critique, the perpetuation of the public-private divide is left unchallenged. Finally and most succinctly, just as new institutionalism makes the case that institutions matter; feminist-institutionalism makes a stronger case that they matter quite differently for women.

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