

# THE IMPACT OF QUEBEC INDEPENDENCE ON CANADIAN FEDERALISM

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Quebec has been in the process of separating itself from Canada for quite some time now. At the very least Quebec has been in the process of distinguishing itself from the rest of the country. In relation to changes in the power sharing arrangement, the reality is that the Government of Canada has been busy devolving many of its powers to the provinces. In these times of change, it is interesting to examine what the impact of Quebec separation or changes in power allocation would be upon women of the Maritimes. Further, I would even suggest that both these events have either already taken place or are currently in the process of taking place.

## Quebec as a Separate Entity

Most would agree that Quebec is a distinct society, yet many overlook the fact that Quebec women are equally distinct. There are many examples of the differing realities of Quebec women in contrast to women in other parts of Canada. Firstly, in Quebec, women most often retain their birth names in the event of marriage. They have been doing this since changes were made to the Quebec *Civil Code* in 1981. Though the option of combining the birth name with the husband's name is also popular, fewer and fewer women even do this. When the Advisory Council on the Status of Women suggested the same policy in New Brunswick in the early eighties, politicians responded adversely. They argued that "real women" would not want such an option, as women preferred their husband's names. Though Quebec women were probably not prepared to march in the streets for this issue, they were more than receptive to their provincial government's 1981 initiative. The implications or magnitude of such a choice may not be readily apparent. Yet it is difficult to ignore that following the Egyptair crash of October 1999, Jeannine Bourdage did not die in anonymity. News reports did not inform us that Claude Masson, the editor of *La Presse*, and his wife were killed in the crash, but that Claude Masson and Jeannine Bourdage were killed in the tragic accident. The use of her maiden name gave her a fuller identity beyond the role of 'wife.'

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Another example of the distinctiveness of women in Quebec is the low birth rate compared to the rest of Canada. The reasons for this low birth rate are assuredly varied and could stem from the higher participation of Quebec women in the labour force or as a reaction to the Catholic Church's preoccupation with reproduction. Regardless of the reasons, this low birth rate has led to more family friendly policies in Quebec than in other Canadian provinces. Baby cash bonuses were introduced a few years ago which increase in value with each subsequent birth. Recently a universal daycare program was established for all families at the cost of five dollars a day. Quebec is the only province with such an family extensive family policy. The very institution of marriage occupies a distinct, if not marginalized, position within Quebec culture. More than half the couples in Quebec are living in common law unions. The national rate is 13% while New Brunswick has only 11% of couples in common law unions. It is very clear that the reality of Quebec women's day to day lives is markedly different from that of the rest of the country.

This distinction or separation has deeper implications, however. The attendance of women from Quebec at national women's conferences is limited. Their numbers began dwindling following the 1982 repatriation of the Constitution, when the entire province felt alienated by the process. In 2002, they are simply absent. It is unfortunate, as many could learn from their unique approaches to equality. While the majority of Canadian feminists seek equality from legal means, Quebec women choose to actively participate in both governance and the development of public policy. It is true that organizations such as LEAF, or the Legal Education and Action Fund, have been successful in widening Canada's interpretation of equality, and such successes should be duly celebrated. Yet it is dangerous to become too dependent on the Supreme Court of Canada, to the exclusion of active political organization. At a time when our national women's groups such as the National Action Committee are struggling for survival, this consideration merits debate. Conversely, women's groups in Quebec have never been stronger or more vibrant. There are currently 15,000 active women's groups in the province of Quebec. It is easy to see why the government listens when they speak, or why Quebec women enjoy a universal daycare program.

Perhaps the most attractive feature of Quebec's approach is that women develop a sense of ownership towards public policy issues. They discuss equality issues in their groups as well as in public forums, while the more legal approach to such issues tends to exclude most women from the analysis. This is not meant to minimize the gains made by female lawyers, jurists or legal scholars. Furthermore, feminist organizations such as LEAF, DAWN (Disabled Women's Network), NAWL (National Association of Women in the Law) are quite committed to consultation.

We all benefit from these highly sophisticated analysis of equality, even though we do not share a sense of ownership over these developments and victories. Yet there is also something inherently eerie about relying upon Supreme Court determinations to achieve what our governments cannot or will not do.

Finally, Quebec women differ from the rest of the country in their view of full participation in governance as a right, not a privilege. This was evident during the latter part of the nineties especially, when the province developed their *Projet de société*. A public debate was organized throughout the province which culminated in a provincial forum. Women from all sectors of Quebec society were involved in this major consultation, especially in the televised debates. Though not every aspect of this process was perfect, we have yet to witness anything remotely similar in the rest of Canada. It was refreshing to have women front and center for national public debate on the kind of country we want to develop.

### **Changes in Federal and Provincial Power Allocation**

Many do not recall why both the Meech Lake Accord and the Charlottetown Accord were rejected. Such considerations are somewhat irrelevant given that so many of the proposals within the accords have been implemented or are in the process of implementation. The devolution of powers to the provinces is well underway. In true Canadian fashion, however, such a process is occurring incrementally.

At the time of the Accord debates, the New Brunswick Advisory Council on the Status of Women (ACSW) actively opposed certain elements. Central concerns focused on both limits to federal spending powers and a proposal to recognize exclusive provincial jurisdiction in areas such as housing and training. At that time, various training programs targeted women with training spaces reserved for women.

The ACSW feared that limits on federal spending would threaten the future expansion or implementation of national social programs such as a national daycare program. Though the limiting power of the federal government to spend was not entrenched in the Constitution, the concept was far from abandoned. Other administrative means were found to meet this objective, such as the replacement of the Canada Assistance Plan with the Canada Health and Social Transfer payments to the provinces. Through this change, the federal government abandoned its right to set national standards in social policy. The national obsession with deficit elimination and the reduction of debt led to reduced social spending, not to mention the expansion of national social programs. Even if such objectives are deemed worthy, the implications are immense. If the federal government is not involved

through its power to spend, Atlantic Canadians are not likely to receive a universal daycare system like that of Quebec any time soon.

The second aspect of the constitutional proposals which the ACSW challenged was the recognition of exclusive provincial jurisdiction in housing and training. This has since come to fruition, however. All social housing in New Brunswick is now under provincial jurisdiction, and many former employees of the Canada Mortgage and Housing Corporation now work for the province. The fear was and continues to be that social housing dollars will be redirected to road building. The impact of such an economic rerouting would be greater on women than men, as women are the principal beneficiaries of social housing. In the area of training, dollars in the E.I. training fund are now transferred to those provinces which have signed agreements with the federal government. Hence, former Canada Employment Centre staff now work for the province of New Brunswick. Three years into their employment agreement, these employees will suffer salary reductions to match their incomes with their provincial counterparts. Such reductions in salary will hopefully not effect the evaluation of quality standards from province to province. Though current complaints with private training courses are not necessarily related, increased use by private trainers and varying provincial standards could create future problems.

On a positive note, however, the ACSW's past recommendations have shown signs of acknowledgment and application. The recommendation for equal representation of women in both the Senate and other institutions has shown marked improvements over time. Though this was not a part of the official proposals which governments entertained at the time, the current federal government now has a respectable record for female appointments to the Senate. There have also been marked improvements in female appointments to the Bench, although not as significant in number as that of the Senate. It is important to note that as long as this principle remains unentrenched, this trend could alter at any time, as all appointments are in the domain of the government's discretionary powers.

The ACSW has also supported various other worthy causes within the province. It recommended that New Brunswick's Bill 88, *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*,<sup>1</sup> be entrenched in the Constitution. This was achieved, as it only required the assent of New Brunswick, and not that of the other provinces. The ACSW also supported the First Nations Peoples' right to self determination, which has also undergone significant progress

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<sup>1</sup> S.N.B. 1981, c. O-1.1.

in the political and legal arena.

### **Conclusion**

As this paper has demonstrated, the majority of constitutional proposals which were rejected by the public in the 1980's and 1990's have since been implemented. The question remains, then, why such proposals were rejected in the first place? A troubling possibility to consider is that we as Canadians were more opposed to a recognition of Quebec as a distinct society than any particular constitutional conceptions. If we as a nation have not opposed the incremental implementation of so many of these proposals, common sense would dictate that perhaps there is a more deep seated motivation involved. Further, it seems ridiculous and pointless to refuse official recognition of what is so factually and blatantly obvious. Quebec is indeed a distinct society and culture, with its own distinct feminist voice and population.