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Potential and Limitations of Horizontal Management

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Quelle autonomie et quelle reconnaissance pour les communautés de langue officielle en situation minoritaire ?

What Autonomy and Recognition for Official Language Minorities?

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Article abstract

On 11 June 2010, ten leading scholars came together at the invitation of the Canadian Institute for Research on Linguistic Minorities to discuss the autonomy and recognition of Canada's official language minority communities. In this article, I examine the implications of this workshop for Francophone minority community institutions by emphasizing and contextualizing main ideas and expanding on key proposals. First, I map out and explain how the implementation of horizontal management has increasingly curtailed community autonomy. Next, I catalog and discuss participants' proposals for fostering greater autonomy for Francophone minority communities. Last, I sketch the potential and limitations of horizontal management.

Potential and Limitations of Horizontal Management

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Abstract

On 11 June 2010, ten leading scholars came together at the invitation of the Canadian Institute for Research on Linguistic Minorities to discuss the autonomy and recognition of Canada's official language minority communities. In this article, I examine the implications of this workshop for Francophone minority community institutions by emphasizing and contextualizing main ideas and expanding on key proposals. First, I map out and explain how the implementation of horizontal management has increasingly curtailed community autonomy. Next, I catalog and discuss participants' proposals for fostering greater autonomy for Francophone minority communities. Last, I sketch the potential and limitations of horizontal management.

Résumé

Le 11 juin 2010, l'Institut canadien de recherche sur les minorités linguistiques conviait dix chercheurs de renom pour discuter d'autonomie et de reconnaissance des communautés de langue officielle en situation minoritaire au Canada. Je me propose ici de réfléchir aux enseignements à tirer de cet atelier, en particulier en ce qui a trait à la gouvernance des minorités francophones hors Québec. Plus concrètement, j'expose d'abord les incidences de la gestion horizontale sur l'autonomie des minorités francophones. Ensuite, je m'intéresse aux diverses propositions d'autonomisation mises de l'avant par les intervenants. Au final, j'esquisse les promesses et limites de la gouvernance horizontale.

On 11 June 2010, the Canadian Institute for Research on Linguistic Minorities (CIRLM) at the Université de Moncton hosted a workshop around this twofold question: which autonomy and which recognition for Canada's official language minority communities? The event brought together the foremost authorities on these communities as well as leading experts on the institutional options available to minorities that seek to manage (some of) their own affairs.

The impetus for the workshop was the lack of attention paid to Canada's official language minority communities in the vast academic literature on the protection of minorities in liberal democracies (CIRLM, 2010). Their omission is puzzling for two main reasons. First, Canadian scholars discussing a number of Canadian issues have been at the forefront of this debate, shaping its agenda, and determining its content (see Kymlicka, 1995; Taylor, 1992; Tully, 1995). As Michael Ignatieff (2000) explains, "these thinkers are making a theory out of the elemental experience of Canadian politics." The prominence of Canada and Canadians has also been confirmed by American scholars who have condemned theories of minority rights and accommodations on the ground that they are too narrowly focused on the Canadian case (see Barry, 2001; Benhabib, 2002; Laitin, 1998). Second, leaders of official language minority communities, and especially those of Francophone minority communities, have historically appealed to notions of autonomy, self-control, and governance to articulate their communities' aspirations. For example, the *Fédération des francophones hors Québec* (FFHQ, 1982; my translation; see also FFHQ, 1977, 1979; FCFA, 1992, 2007) writes, "a comprehensive governmental strategy [...] must aim to transfer as much political power as possible to Canada's Francophone minority communities." In short, the academic literature on the protection of minorities presents Canada as comprised of an English Canadian societal culture and a Québécois societal culture... and Francophone minority communities remain theoretical anomalies.

This article examines what this decidedly academic workshop could mean for Francophone minority communities, especially their institutions. My basic strategy consists in emphasizing main ideas, contextualizing them, and then expanding upon key recommendations. The article proceeds in three sections. First, it maps and explains how the implementation of horizontal management in the area of official languages has increasingly curtailed community autonomy. Second, it catalogs and discusses participants' recommendations for fostering greater autonomy. Third, it pulls these threads together by sketching the potential and limitations of horizontal management.

Horizontal Management and Official Languages

Horizontal management refers to the pooling of expertise and the sharing of powers between different actors in the belief that resulting policies and programs will be better suited for the challenges on hand. Or, as Herman Bakvis and Luc Juillet maintain (2004: 8), “the coordination and management of a set of activities between two or more organizational units, where the units in question do not have hierarchical control over each other and where the aim is to generate outcomes that cannot be achieved by units working in isolation.” Horizontal management is not restricted to the federal government nor to the area of official languages. It is common to all liberal democracies and it encompasses a wide-range of issues. Its dominance follows from the fact that many of the most pressing issues in our societies are cross-cutting and thus often require the collaboration and cooperation of people and institutions from within and outside government. To again cite from Bakvis and Juillet, “climate change, US-Canada relations, the skills and innovation agenda, the urban agenda, public security in the post 9-11 era, international trade agreements, for example, are all issues that by definition involve the interests and expertise of two or more departments” (2004, 10-11).

In the past decade, horizontal management has established itself as a prominent topic of research in the study of Canada’s official language minority communities. Naturally, then, many at the workshop broached it. In fact, horizontal management served as the backdrop to much of the presentations and the ensuing discussions. Let me explain by providing a brief overview of the incremental expansion of the federal language regime before turning to the horizontal management of official languages and its effects on Francophone minority communities.

Canada’s language regime has been consistently expanded since the adoption of the Official Languages Act in 1969. The initial aim was institutional bilingualism, that is, to create a federal government that could communicate effectively with Canadians in both English and French. In practice, and as Kenneth McRoberts (1997, 79) reminds us, the Act was fundamentally concerned with raising French to the level of English in the day-to-day operations of the federal government. In 1982, another layer was added with the adoption of the Charter of Rights and Freedoms. Along with giving constitutional status to institutional bilingualism, the Charter also enshrined education rights for Francophone minority communities, a long-standing demand of these communities. Section 23 grants to parents belonging to an official language minority community the right to have their children educated in their mother tongue in homogenous schools. In 1988, in response to new commitments brought about by the adoption of the Charter, the federal government passed an augmented Official Languages Act. The new legislation added two additional layers to

the country's language regime. First, Part V of the Act recognizes the right of civil servants to work in the official language of their choice. Second, Part VII (1988: 19) commits the federal government to "enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development." Last, since 2005, following an amendment to the Official Languages Act, the federal government is legally obligated to adopt "positive measures" to enhance the development of official language minorities, and citizens have recourse to legal remedies if these obligations are not respected.

Thanks to insightful work from Linda Cardinal and various colleagues (2001; 2007; 2008; 2009), it has become commonplace to distinguish three stages in the horizontal management of official languages. In the first stage, the federal government, in response to its newfound obligation to support the long-term development of official language minorities, signed funding agreements with official language communities from each province and territory, starting with the Fransaskois in 1988 (see Denis, 1994). These agreements, however, were and remain about much more than funding. They mark the coming of horizontal management because they involve federal public servants into the identification of community development priorities as well as into the distribution of allocated funds.

The second stage is defined by the federal government's initial attempt to coordinate its commitments to official languages and the minority communities that speak them. Starting in 1994, the government put in place a network of official language representatives from 27 federal departments and agencies, created an accountability framework to oversee the implementation of the Official Languages Act, and introduced a number of consultative committees (Cardinal *et al.*, 2008: 216). Taken together, these initiatives structured the relationship between the federal government and Francophone minority communities and further involved community leaders into the administration of official languages. This is what Éric Forgues (2007) has aptly termed the "linguistic compromise." As he explains, Francophone minority communities accepted to submit themselves to bureaucratic norms in exchange for a role in the conception and implementation of the government's official languages policy.

Yet, in spite of the multiple initiatives, Francophone minority communities, supported by the Commissioner of Official Languages, remained largely unsatisfied and argued that the government was not respecting its obligations set out in the Official Languages Act, 1988. In 2001, the Prime Minister mandated Stéphane Dion, then Minister of Intergovernmental Affairs, to introduce a new framework to coordinate the government's commitments towards official languages, including the support and development of official language minority communities (Cardinal, 2007: 97).

The release of The Action Plan for Official Languages in 2003, more commonly known as the *Plan Dion*, marks the beginning of the third stage. In terms of the institutionalization

of horizontal management, the action plan is significant because it commits federal institutions to consulting linguistic minorities when planning and developing policies and programs related to official languages. It led to mechanisms of horizontal management in the areas of justice, economic development, health, immigration, and adult literacy. In total, Cardinal *et al.* (2009: 166) have catalogued the creation of more than 70 committees in the area of official languages on which representatives from Francophone minority communities hold seats.

Today, the situation remains essentially unchanged, as the federal government has renewed its strategy for another five years with the recent adoption of *Canada's Roadmap for Linguistic Duality* (2008). Thus, in essence, Francophone minority communities are more than ever involved in processes designed to determine government actions in the area of official languages.

There are short and long answers as to why horizontal management was criticized at the workshop. The short answer is that horizontal management has come to replace community autonomy. The long answer is that, since the early 1990s, horizontal management has come to dominate the Canadian public administration as well as that of most liberal democracies. In parallel, the federal government, following the adoption of the Official Languages Act in 1988, expanded its actions towards Francophone minority communities. The result has been an unprecedented rapprochement between the federal government and Francophone minority communities. Community leaders have become involved in the elaboration of public policies and the implementation of government programs. And more importantly, these communities have tailored their institutions so as to facilitate their participation in the federal government's numerous mechanisms of horizontal management (Forgues, 2010: 71). In short, in the area of official languages, horizontal management has come to mean an octopus-like configuration of more than 70 government-community committees mandated to elaborate and implement programs to meet government objectives.¹

At the workshop, two participants spoke directly to horizontal management and its impacts. For Forgues (this issue), horizontal management has led to an administrative and financial dependence of Francophone minority communities on the federal government. Building on his previous research on the structural effects of Canada-community agreements, he argues that these agreements led to both self-control and dependence. The dynamic at play here is that the signing of agreements has resulted in the direct involvement of Francophone minority communities into the administration of funds for their community, an involvement that, in principle, raises their self-control. However, the administration of the agreements has become so burdening that it is commonplace to wonder whether their

1. The expression "octopus-like configuration" is from Paul Saurette ("When Smart Parties Make Stupid Decisions," *The Mark*, 23 July 2010).

very administration has become the end game (Forgues, 2007: 100). In short, the implementation of Canada-community agreements through the federal administration's bureaucratic norms has taken away the innate potential of these agreements to foster autonomy.

André Magord's critique (this issue) is more theoretical but no less important. In discussing the existing relationship between Francophone minority communities and the federal government, he contends that the current strategy rests on two particularly problematic principles. First, Magord is critical of the overly individualistic conception of equality that lies at the basis of the federal government's official language policy. In fact, the official language policy guarantees the same language rights to every citizen regardless of place of residency. For Magord, this is clearly insufficient. To enjoy these rights, French speakers need to have access to a community of French speakers and, for the time being, the government policy assumes that this community will somehow flourish on its own.

Second, and more closely related to the case of New Brunswick, Magord argues that the philosophy of horizontal management has created organizations that are increasingly disconnected from the population at large. The result: a deficit of legitimacy. Magord further develops this critique in his recent *The Quest for Autonomy in Acadia*. He (2008: 93) writes, "each grouping of associations responded to the organizational challenges of the time, but they did this in a corporatist fashion, with the State, and not the Acadian population, as the ultimate arbiter." Regardless of the extent and depth of horizontal management, Magord believes that associations speaking on behalf of Francophone minority communities need to do a better job of connecting with French speakers in their respective provinces and territories. In short, if his first critique is aimed at the federal government, his second is directed at Francophone minority communities.

In summary, if we are convinced by Forgues' and Magord's respective research, and more generally by the work done in the past ten years by the Cardinal-led team of researchers at the University of Ottawa, the question then becomes how to move beyond the current predicament.

Beyond Horizontal Management, Towards Community Autonomy

Autonomy is an admittedly multifaceted term. As one scholar (Potier, 2001: 54) puts it, "it is a loose and disparate concept that contains many threads, but no single strand." At its core, autonomy refers to the creation of institutional space in which a minority can manage affairs it deems of importance. It may take the form of administrative powers, legislative jurisdiction, or exclusive authority. The features of a given working autonomy will depend on context, where context at least involves historical origin, geographical location, ethno-cultural composition, and political culture (Benedikter, 2007: 347).

Conceptually speaking, autonomy initially evoked two distinct means of diffusing entitlements, resources, and opportunities (Lapidoth, 1997). Following Kenneth McRae's (1975) influential work, these are typically labelled the "principle of territoriality" and the "principle of personality." The former – the principle of territoriality – refers to the devolution of powers and responsibilities to geographically delineated cultural or linguistic groups, and the latter – the principle of personality – involves the transfer of powers to all members of a given group which do not reside on a given territory (Coakley, 1994). While this distinction still has purchase value (Wolff and Weller, 2005), it has become commonplace in recent years to distinguish four and sometimes even five models of autonomy. Scholars now speak of personal autonomy, cultural autonomy, functional autonomy, administrative autonomy, and legislative or full autonomy (Tkacik, 2008). These are generally distinguished from one another by an evaluation of the scope of competencies and their degree of entrenchment.

Although I am not prepared to commit to a definitive stance, I believe that Canada's Francophone minority communities have historically enjoyed and, building on Joseph Yvon Thériault's thesis on "*le désir de faire société*" (2007; Thériault and Meunier, 2008), are seeking to reestablish what the literature calls administrative autonomy. For most, administrative autonomy implies the decentralization of control over a set of areas of key concern, including but not restricted to schools, public services, and courts (Suksi, 2008). Furthermore, as Michael Tkacik (2008: 372) explains, administrative autonomy is often driven by "some overarching purpose, even some unifying philosophical principle." A full consideration of the specific content will have to wait another occasion, however, as it goes well beyond the scope of this article. That being said, all workshop participants discussed ways to move beyond horizontal management. This section tries to bring these contributions together in a concise and coherent manner. I draw particular attention to common themes and key insights by distinguishing philosophical, legal, and institutional considerations.

Philosophical Considerations

Drawing on his recent *De la tolérance à la reconnaissance* (2008), Michel Seymour outlines what he calls a "regime of collective linguistic rights" (our translation). It represents the minimum framework that will have to be put in place if minorities are to enjoy genuine autonomy. This regime has three main components. A minority must first have several institutions that operate in its language. There is a direct correlation here between the number of institutions and the extent of autonomy: the greater the number of minority-controlled institutions, the greater the autonomy of the minority. The measures put in place for the minority are then to be permanent, not transitional. Genuine autonomy generally supposes that the provisions adopted for the minority have been given the penultimate means to permanency: constitutional status. Third, the regime will be territorially limited. While this third component may seem like a platitude, I believe it refers to the idea that provisions

could be restricted to the territory on which the minority resides, such as, for example, the idea of bilingual districts championed by the Royal Commission on Bilingualism and Biculturalism (1967) and recently by Daniel Bourgeois (2006).

Will Kymlicka (this issue), for his part, observes that when it comes to dealing with minorities, the Canadian political system has proven itself to be flexible time and time again, especially in the last 40 odd years. As a result, he suggests that Francophone minority communities “test the outer limits” of the existing political order in Canada. Kymlicka believes that Francophone minority communities should aim to fully work out the logical implications of the Official Languages Act, the Charter, and the multiple official language programs in order to determine whether these dispositions can lead to greater autonomy. He seems to imply that, based on the aforementioned flexibility of the Canadian political system, the tools at the disposal of Francophone minority communities could very well lead to a more autonomous institutional arrangement.

Legal Considerations

Looking at the Canadian situation, Pierre Foucher (this issue) explains that there is no formal right to autonomy in the Charter nor in the jurisprudence. This lack of decisive constitutional enshrinement or legal precedent, however, should not lead to immediate despair. In similar fashion to Kymlicka, what remains to be further explored is whether Francophone minority communities can build on the autonomy acquired in the area of education and health, as well as through funding agreements. An example that comes to mind here is the ongoing attempt to widen the scope of Section 23 of the Charter so as to include early childhood education to the K-12 provisions already guaranteed in the area of education (CNPf, 2005).

International law also has not enshrined a right to autonomy for minorities (see Roach, 2004). Both Johanne Poirier and Ingrid Roy (this issue) affirm this, but both also insist that international conventions can nonetheless provide tools to help scholars, government officials and community actors reflect on the institutional reorganization of Francophone minority communities. Specifically, international conventions have contributed to establishing a distinction between two kinds of rights that can be granted to minorities. First, and most basic, a government can adopt measures to protect minorities against forces of assimilation. In practice, this can mean a right to use your mother tongue in the public sphere, a right to instruction in your mother tongue, and a right to form associations. These kinds of rights are already guaranteed to Francophone minority communities, and the general sense is that these alone cannot foster autonomy.

Second, a government can move to ensure that minorities flourish, all the while being fully active in the social, political, and cultural life of the society at large. Institutionally,

there are two ways of doing this. On the one hand, a government can implement mechanisms within existing institutions (see Weller and Nobbs, 2010). Ingrid Roy says that these alterations from within are “integrationist” because they focus on ensuring that minorities can fully participate in the institutions of society as members of minorities. The most common examples are probably reserved seats and veto powers. On the other hand, a government can also adopt “autonomist mechanisms.” These are minority-controlled institutions that operate in parallel to government institutions (see Nimni, 2010). As shown above, the horizontal management of official languages has precluded such minority-controlled institutions in the case of Francophone minority communities.

While we could be led to believe that autonomist strategies are normatively better than integrationist strategies because they give a minority its own institutions, Poirier warns that the flourishing of a minority may actually be better served by means that serve to respectfully integrate it into the day-to-day operations of the government. For example, being able to fully implement autonomist mechanisms requires having a seat at the budget table. And so the optimal institutional alternative may actually be a combination of partnership and autonomy.

Institutional Considerations

Some workshop participants defended the merits of given institutional arrangements. Cardinal and Forgues (this issue) both suggested that Francophone minority communities work to strengthen the model of governance they have inherited from their funding agreements. Forgues’ proposal rests on three requirements, each to be fully implemented if the institutional arrangement is going to lead to more autonomy. The first requirement is directed at the federal government and has been an ongoing issue in the relationship between the government and Francophone minority communities: the centralization and consolidation of the government’s official languages strategy under the auspices of the Department of Heritage Canada. The underlying intention is to have the responsibility for official languages rest on a single institution, an institution Francophone minority communities can call upon and that the government can turn to for a comprehensive report on progress and setbacks. The second requirement is aimed at Francophone minority communities, especially their existing institutional arrangement: these associations that speak on behalf of Francophone minority communities need to have more legitimacy. While Forgues does not offer a remedy, the more obvious solution would be to have all French speakers in the province or territory cast a ballot, effectively electing the board of the provincial or territorial umbrella association that speaks on their behalf. Francophone minority communities, in this sense, would organize themselves as sub-state governments rather than as pressure groups. The third requirement is to have Francophone minority communities solely administer the funds allocated through the Canada-community agreements. Obviously, they would have

to meet administrative standards in line with those of the federal administration, but the point here is that federal civil servants would not have a say in the distribution of allocated resources.

Cardinal makes a case for the revival of “institutional completeness,” a concept that has historically been central to the politics and the study of Francophone minority communities. Initially introduced by Raymond Breton in 1964, this notion implies that minorities need a range of institutions if they are to flourish. Cardinal offers two reasons for reviving it. First, it could serve Francophone minority communities in their quest for more autonomy, a notion they have used with some success in the past (see Aunger, 2010). Second, its re-theorization could also represent the contribution of scholars from Francophone minority communities to the broader academic debate on state-minority relations. Put differently, institutional completeness may represent Francophone minority communities’ very own model of autonomy.

Rodrigue Landry and Magord (this issue) are both more ambitious in their respective proposals. For Landry, genuine autonomy requires that Francophone minority communities be understood as integral parts of the Francophone societal culture in Canada. The logic is that being part of a societal culture gives Francophone minority communities more normative leverage, that is, a stronger case for institutional autonomy. Building on the Official Languages Act, as well as Supreme Court decisions, Landry argues that the logic underlying the federal government’s vision of official languages is actually that of two societal cultures in Canada, both extending from coast to coast to coast.

Focusing on Acadians in New Brunswick, Magord makes a case for the “decentralization” and “relocalization” of key government services to minority-controlled structures. While it is unknown whether the model would work outside New Brunswick, or whether Magord intended for it to apply to other Francophone minority communities, what is clear is that this model entails much more than a strengthening of minority governance *à la* Forgues or Cardinal. The proposal calls for the actual transfer of government responsibilities to Acadians. There is no doubt that its implementation would lead to a substantial increase in autonomy.

Let me conclude this section with a few caveats from Thériault (this issue), who discusses the limits of both minority governance and cultural autonomy as alternative institutional arrangements. On minority governance, Thériault is concerned that Francophone minority communities’ network of associations will essentially remain an extension of the federal administration. As per models of cultural autonomy, while sympathetic, Thériault raises two questions. First, he wonders whether French speakers outside Québec will come to accept that the parameters of the Francophone societal culture will necessarily be set by the Québécois. Second, he further questions whether entertaining models that require

constitutional reforms are worth the efforts. Constitutional episodes of the 1980s and 1990s have left deep scars on the political class of this country and it would be hard to convince elected officials to change the constitution.

Potential and Limitations of Horizontal Management

In conclusion, allow me to flesh out three general observations. At the outset, horizontal management is not a mean-spirited philosophy of public management that purposely aims to curtail community autonomy. Let's keep in mind that horizontal management has an appealing rationale: "[...] given the interdependent and crosscutting nature of items on the government's agenda, key policy objectives cannot be achieved without several different agencies, governments and external partners working together" (Bakvis and Juillet, 2004: 5). My sense is that most if not all workshop participants are on board with horizontal management as a general framework through which the public administration can come to terms with pressing issues, including its legislative commitments towards official languages and the minority communities that speak them. Their problem lies with how horizontal management has come to permeate community development.

It is difficult to exaggerate the importance of Cardinal and colleagues' (2008: 210) recent conceptual distinction between *internal* and *external* horizontal management. While the first refers to collaboration between line departments, the second denotes cooperation between line departments and groups from civil society and/or the private sector. This distinction allows us, on the one hand, to endorse internal horizontal management in order to have line departments coordinate their efforts with respect to official language and having them consult and even involve Francophone minority communities. On the other hand, it allows us to reject external horizontal management, that which has led to a restructuring of the community sector and the adoption of federal bureaucratic norms, in favor of government support and assistance that would promote community autonomy.

Last, the workshop appears to embrace a re-politicization of leaders of Canada's Francophone minority communities. Of course courts can be relied upon, but as pointed out by the three legal experts in attendance, there is no basis for a right to autonomy neither in Canadian nor in international law. Hence, and in similar fashion to the first few reports published by what is now called the *Fédération des communautés francophones et acadiennes*, Francophone minority communities will have to define what they take to constitute autonomy and develop an arsenal of reasons to convince the federal government and the wider society. Thus, Kymlicka may be on a promising track when he suggests that Francophone minority communities test the so-called outer limits of the existing framework put in place to accommodate them.

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Mots clés

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