Asymmetrical Federalism

Ronald L. Watts distinguishes 'political asymmetry,' which "is characteristic of all federations" and arises from the relative influence of different units within the federation, and 'constitutional asymmetry' which assigns differing powers to some unit or units. This form of asymmetry is rare. Canada has from the beginning had the small measure of asymmetry indicated by the former, relating especially to language, education and the civil law of Quebec.

Asymmetry relating to constitutional powers would inevitably create difficulties in achieving agreement (as in the case of the Meech Lake Accord and the Charlottetown Accord) and conceivably in operation after agreement. Constitutional asymmetry relating to the fiscal capacity of provinces creates less difficulty and section 36 of the *Constitution Act, 1982*, contains an important provision of 'fiscal asymmetry' relating to "Equalization and Regional Disparities." What has made this 'asymmetry' acceptable is the fact that the underlying principle is to promote "equal opportunities for the well-being of Canadians" and to provide "essential public services of reasonable quality to all Canadians." Equalization payments are available to provinces with lower than average capacity to raise money by taxation, but not to provinces above that average.

Sources:

- P.W. Hogg, *Constitutional Law of Canada*, looseleaf (Toronto: Carswell, 1977).
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- R.L. Watts, *Comparing Federal Systems*, 2d ed. (Kingston: Published for the School of Policy Studies, Queen's University by McGill-Queen's University Press, 1999).