

Decline or Resilience of Parliamentary Democracies in Multilevel Governments: Canada and Europe Compared

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Abstract

Globalization in economy and society has caused an increasing need for coordination of policies across territorial boundaries and levels of government. However, while policy-making is becoming de-territorialized due to intergovernmental relations, democratic politics determined to generate general public support still remains organized in a territorial framework. This incongruence between intergovernmental policy-making and intra-governmental politics is all but new: it has been widely discussed as fundamental problem of democracies in federal and decentralized states. The growth of multilevel governance beyond state boundaries only has accentuated the problem. Mainly affected by these developments are parliaments. Yet instead of passively tolerating shifts in power to executives, they seek new ways to influence policy-making and to hold executives accountable. As the following paper shows, European parliaments have reacted by internal reforms and by extending external relations. Here, we observe the emergences of multilevel parliamentarism. In Canada, reactions of parliaments focus on internal relations to their government. The paper describes these different trends and explains variations in multilevel activities of parliaments.

1. Introduction

Over the last years, political science has intensively discussed changes of governance in the modern state (e.g., Sørensen 2004; Leibfried and Zürn 2005; Benz 2008: 259-312). Depending on the theoretical lenses, studies focus on internationalisation, privatisation, “commodification”, hollowing out of the state, the rise of the regulatory state and other trends in functions, powers and modes of governance. Regardless of which particular concepts they apply, scholars acknowledge that these changes go along with growing complexity of governance structures. While institutions have become differentiated due to decentralization and internationalization, societal problems and policies in the constituent units of national, sub-national and transnational political systems more and more interfere. As a consequence, governments have to manage interdependence by coordinating policies across territories and levels. But while policy-making is increasingly de-territorialized, democratic politics determined to generate legitimacy and support by citizens still remains organized on a territorial base. Though new forms of democracy have been proposed, executive’s accountability to parliaments directly elected by citizens of a territorially demarcated jurisdiction continues to constitute the institutional core of democracy. The creation of transnational polities like the EU has not altered this condition. Hence, with the rise of multilevel governance, the close linkage between effective governance and democratic government has dissolved.

In transnational federations like the EU and in federal nation states, this incongruence between multilevel governance and democratic government is all but new and has been extensively discussed in political science (Benz 2009; Whitaker 1983). For a long time, multilevel (federal, confederal) governments have been said to suffer from a democratic deficit, as parliaments, in particular those at lower levels, have lost ground against competing or cooperating executives. In Canada, scholars have characterized the evolution of intergovernmental relations between the federal and provincial governments as “executive federalism” (Brock 2003). On the other side of the Atlantic, Andrew Moravcsik’s conclusion that European integration strengthened the executives of nation states (Moravcsik 1994) found many supporters. While powers of the European Parliament (EP) have been extended, national parliaments have appeared to loose during the integration process, not unlike what has been diagnosed for provincial parliaments in Canada (e.g., Smith 2003: 106).

While challenges to parliaments are similar in democratic national and supranational federations, institutional conditions and impacts of multilevel governance differ. Canada and Europe provide most interesting cases for a comparative study which can help us to better understand the current dilemmas and “transformation of democracy”(Dahl 1994). In contrast to Canada, where state building implemented a parliamentary system at the federal and provincial level, the European federation “in the making” still lacks the institutional and social conditions of a well established democracy at the central level (e.g. Kielmansegg 2003). While the EP, directly elected since 1979, has now received co-decision rights in most areas of legislation, it is still the Council, the assembly of member state executives, which holds primary legislative power, and elections to the Parliament are still “second order elections” (LeDuc 2007: 148). More than in Canada, “confederal” elements prevail in the EU, where cooperating executives dominate decision-making.

This particular constitutional quality is one of the reasons why lower level parliaments, i.e. national and, where they exist, sub-national parliaments have always accorded an important role in asserting the democratic legitimacy of European policy-making. Nonetheless, institutional reforms determined to democratise the EU focused on the EP. It was not since the

turn of the century that national parliaments have attracted attention. While the EP gained powers, national parliaments entered the game of multilevel politics and finally achieved rights stated in the Treaty of Lisbon. Thus, as Simon Hix and Tapio Raunio put it, “parliaments fight back” (Hix and Raunio 2000). They have responded to “executive federalism” à la Europe. But instead of merely claiming veto power, they have developed a broader set of instruments to effectively participate in multilevel governance. Meanwhile, they engage in transnational linkages to other national parliaments and to the EP. Scholars have observed the emergence of multilevel parliamentarism (Crum and Fossum 2009).

In Canada, this trend towards inter-parliamentary relations is much weaker compared to the EU, despite the continuous evolution of intergovernmental relations. During the 1960s, executive federalism emerged in the shape of informal meetings of First Ministers, which later were partially formalized. There is hardly any doubt that the need to better integrate parliaments in these processes is no less important in Canada than in Europe. But so far, multilevel activities of Canadian parliaments have remained limited.

In the following sections, I outline the different dynamics in the evolution of multilevel parliamentary systems in Canada and the EU. A comparative inquiry into both cases can help us to better understand and explain the interplay between federalism, multilevel governance and democracy. It shows that the different responses of European and Canadian parliaments to inter-level policy-making can be traced back to particular mechanisms of intra- and inter-governmental politics. By taking into account the dynamic interplay of these mechanisms, we can gain new perspectives on multilevel democracy beyond the common sceptical perceptions which merely emphasize deficits. We can discover institutional learning or adaptation, which are driven by tensions between inter- and intra-governmental arenas. The following section describes these tensions in greater detail, before I proceed with analysing the consequences.

2. Tensions between multilevel governance and parliamentary democracy

By dividing and sharing powers, multilevel political systems imply differentiation and interdependence per se. But with recent changes in state functions, in public policies and in the national and international economy and society, the traditional two-level structure existing in federal states has turned into a much more complex multi-dimensional matrix or network like patterns of governance. The concurrent process of globalization and localization of economic activities and its social consequences have dramatically increased the need to coordinate regulation and delivery of public goods and services across boundaries of territorial units and levels of governance. Impacts of these trends can be observed in Canada and in the EU.

In Canada, we find significant changes in the traditional “federal-provincial diplomacy” (Simeon 2006), which nowadays includes institutionalized forms of intergovernmental relations among the provinces, patterns of regional “cross-border” cooperation between individual provinces, policy-specific relations of ministers and intergovernmental networks linking higher level bureaucrats. In the EU, the cooperation of governments in the European Council and the Council of Ministers is supported by numerous committees and network of bureaucrats, including representatives from national governments and organised interests. Moreover, since regional and local levels have gained importance for implementing European policies, representatives of “sub-national” governments and administrations have entered multilevel patterns of policy-making (Hooghe and Marks 2001).

The extension of multilevel coordination to more and more public policies has led to a sectoral fragmentation of political systems. This process has been intensified due to the rise of regulatory policies and independent agencies or bodies, which is obvious in the EU, but has affected the Canadian state, too (not the least as a consequence of the Agreement on Inter-provincial Trade). Moreover, governments and administrations share responsibilities with private actors and include interest groups and citizens in consultative bodies or policy networks. While leaders of governments risk to be overloaded with complexity, coordination tends to shift to specialists (“technocrats”) of governments and administration, with consequences for intergovernmental relations and parliamentary democracy.

Since long, it is well known, that parliaments are affected by trends toward negotiated policy-making in intergovernmental relations. In Canada, where intergovernmental agreements partly replaced legislative acts, if not constitutional amendments (Poirier 2004), the concept of “executive federalism” was coined to describe the perceived decline or changing role of parliaments (Brock 2003) and the diffusion of authority and accountability. Donald Savoie has summarized the implications as follows:

“Because of the growing complexity of making policy and decision, the ‘true locus of government activity’ has shifted from institutions and departments that were formal and visible (and thus occupying a distinct ‘space’) to those that ‘are diffuse and obscure.’ It has moved from a traditional model of government, which rested on clearly defined offices and unbroken chain of command, to a new model that encourages career officials to step outside hierarchical constraints in search of partnerships with other departments, other governments, the private sector, stakeholders, and research institutes”. (Savoie 2003: 251).

Like other scholars, Savoie described a shift in power from parliaments to the executive. In fact, multilevel governance changes the interaction between actors of both institutions. But members of parliaments do not passively accept a loss of power, and the executive, too, has to manage challenges of the multilevel game. In order to better understand the consequences of these developments, some considerations on the role of parliaments and the mechanisms of governance in parliamentary democracies are necessary (Benz 2004).

As a rule, the executive has the power to control the legislative agenda and to formulate policy proposals, for which it has to seek support by the parliament. Holding the effective veto power, the majority in parliament can accept or reject policies, and the executive has to anticipate its opinion. The opposition groups see to it that policies are subject to public deliberation and that governments and majority parties communicate reasons for their decisions to the electorate. Effectiveness and stability of governance is guaranteed, because the majority holding the veto power is usually not inclined to use this power against the executive, and the opposition motivated to veto policy proposal issued by the government lacks the power to do so. But debates between majority and opposition parties turn the parliament into a public forum for evaluating the performance of government, thus linking governments to citizens.

In multilevel governance, the interaction of the relevant actors in the parliamentary system change in significant ways. Governments, the majority parties and the opposition groups in parliament now find themselves in a situation confronting them with particular dilemmas: The government negotiates policies in intergovernmental relations, but the more it makes concessions concerning the interests of its own jurisdiction, the more it risks losing the support of its parliament. The majority parties in parliament should control whether negotiated

policies meet the interests of their constituency, but if they tie the hand of their government the latter loses its discretionary power to negotiate agreements or coordinate policies in inter-governmental processes. The opposition parties have to consider that they may be blamed for undermining their government's standing in intergovernmental negotiations, if they expose the government's position to public debates, while they cannot convince the electorate to vote for a political change if they avoid challenging the incumbent government's policy.

Actors in political systems are well aware of such dilemmas, all the more since politics and collective action in general regularly is about coping with dilemmas. Moreover, we have not reasons to assume that members of parliaments only complain about a loss of power without trying to maintain or regain their power. While hardly any reports are available on relevant responses of Canadian parliaments, studies on EU parliaments have revealed a dynamic interplay between governments and parliaments during the evolution of multilevel governance.

European integration has brought about effects for relations between executives and parliaments similar to those just described for Canada (summarized in Goetz and Meyer-Sahling 2008). They have been reflected in academic debates about the democratic deficit, in particular about the problem of democratic accountability (Kohler-Koch and Rittberger 2007). Nevertheless, unlike to what research has revealed for Canada, empirical studies on EU democracy have not reported a general decline of parliaments, but have drawn a more differentiated picture. Since the mid 1990s, scholars have provided empirical evidence for a certain resilience of parliaments triggered by European integration (Norton 1996; Hix and Raunio 2000). Others have pointed out that "different countries' parliaments have experienced differing degrees of loss of powers" (Schmidt 2006: 65). In any case, case studies and comparative research have discovered processes of adjustments in national parliaments in response to emerging multilevel governance (Auel and Benz 2006). European experiences also indicates that an extension of powers of parliaments, even if it is political feasible, can lead into new dilemma situations which at the end may even jeopardize democracy, if powers are not dealt with appropriately. Therefore, contrary to what has often been assumed in studies on federalism (Simeon and Cameron 2002; Whitaker 1983), democratic legitimacy and intergovernmental relations are not necessarily incompatible; they can be reconciled by appropriate institutional reforms and strategic use of institutional constraints. This way, parliaments turn into multilevel institutions.

3. Evolution of multilevel parliaments

Adjustments of parliaments to the challenges of multilevel governance have led to evolution of what can be called "multilevel parliaments", i.e. parliaments which play a particular role in multilevel politics and adjust their structures and activities accordingly. In a nutshell, this concept covers the following aspects:

- the existence of parliaments at all level of governments, which is a general feature of democratic federalism;
- structural arrangements of parliaments designed to increase their capacities in order to meet the challenges of multilevel policy-making (to achieve and process information and to scrutinize the executive);

- the evolution of inter-parliamentary relations.

From a theoretical point of view, multilevel structures of parliaments seem to be a consequential adjustment to multilevel governance in the executive arena. However, regarding the three dimensions distinguished by the analytical concept, Canada and the EU reveal distinct patterns of multilevel parliaments. The first dimension refers to the history of democratic federalism, which differs in national and supranational federations. Canada stands for the typical case of a federalised nation state where, due to historical and functional reasons, the federal parliament can dispose of stronger capacities compared to provincial parliaments. Accordingly, executive predominance in intergovernmental relations is usually more felt at the provincial level than at the federal level. However, unlike in other federal states, parliaments of the Canadian provinces participate in ratification of constitutional amendments affecting the federal structure. In the EU, the directly elected EP came into being in 1979. While established as a more or less consultative body, it profited from Treaty amendments and inter-institutional agreements with the Commission and the Council. According to the Treaty of Lisbon, which came in effect on 1 December 2009, co-decision is the ordinary procedure of legislation. As a rule, the EP now participates on an equal footing with the Council of Ministers. Moreover, the parliament successfully fought for supervision rights in comitology procedures and in the Open Method of Coordination, as well as for rights to participate in the election of members of the Commission and to pass a vote of non-confidence against the incumbent Commission. Members of the EP are also included in discussions on Treaty changes, although ratification still remains to the member states, the “masters of the Treaties”.

This different evolution of federal structure of parliaments in Canada and in the EU can be traced back to varying starting conditions. More striking are evolutions concerning the role of parliaments, in particular of lower level parliaments, and inter-parliamentary relations. In this regard, we observe more dynamics in the EU than in Canada.

a) Parliaments' involvement in multilevel policy-making

The second dimension, which refers to parliaments' measures taken to effectively participate to multilevel politics, is more visible in the EU than in Canada. National parliaments of the member states made all efforts in order to effectively scrutinize their government's European policies, to better control executives' activities in European policy-making and to hold accountable their national representative in the Council. In all member states, parliaments introduced rules endorsing their right to obtain comprehensive information on European issues from their government as early as possible. They installed special committees for European affairs determined to cope with the rising tide of information and documents to be dealt with. Quite a number of national parliaments explicitly confirmed their veto power against their government in European affairs either by constitutional amendments, by a parliamentary resolution or by an agreement with the government. Some of them achieved a right to control the national representative by binding mandates (e.g. the Danish and Austrian parliament; Arter 1996; Pollak and Slominski 2003). Others systematically scrutinize European documents and the behaviour of their national representative in the Council. The effective influence of national parliaments may vary between member states (Kijver 2006; Maurer 2002; O'Brennan and Raunio 2007; Raunio 2009). But no government can ignore the voice of its parliament when negotiating at the European level.

Following these developments, the Treaty of Lisbon introduced rules on national parliaments that had been discussed already in the Convention set up to draft a constitutional treaty for the EU. The Treaty now acknowledges parliaments of the member states as institutions contributing to democratic legitimacy in a dual polity. They also acquired the right to intervene in the application of powers by the Commission and the Council and to participate in amendments of the Treaties. The following new provisions define their position:

- The Treaty on the European Union (TEU) introduced an early warning mechanisms and a procedure for subsidiary control, which include parliaments in the following steps. At the outset, the Commission has to forward all initiatives for legislation directly to national parliaments. On this basis, parliaments can check whether an initiative conforms to the principle of subsidiarity. Otherwise, they can issue their opinion to the Commission. If parliaments with at least one third of their votes¹ object a legislative proposal, the Commission is obliged to reconsider the issue. If the Commission pursues the proposal against a majority of parliamentary votes, it has to report to the Council and the EP, which both can reject the initiative by majority decision. In addition, each national parliament can bring a legal act to the European Court of Justice by claiming an infringement of the subsidiarity principle.
- National parliaments, jointly with the EP, control and evaluate measures of the EU taken in areas of security and law. These policies affect the core of powers of nation states and concern the identity of national societies. For this reason, parliaments of member states have been given particular influence.
- National parliaments also have a say when it comes to the application of flexibility clauses. Provided that all member state governments agree, such clauses allow the Council to decide with majority in cases where the Treaty foresees unanimity decisions. Under the same conditions, EU laws can be passed by using ordinary procedure of legislation (co-decision of the EP) even if the Treaty requires special procedures.
- Finally, representatives of national parliaments participate in a Convention which needs to be called for preparing Treaty amendments according to the new ordinary procedure. Still the rule holds that Treaty amendments have to be ratified by all member states according to their constitutional provisions. This rule gives national parliaments a veto right.

Canadian provincial parliaments, too, improved their capacities to control governments by developing committee structures, when provinces gained new legislative powers (Docherty 2005; Levy and White 1989). However, only few of them have established committees explicitly responsible for intergovernmental affairs. In day-to-day multilevel policy-making, parliaments are hardly engaged. Intergovernmental negotiations regularly take place in private meetings of ministers or bureaucrats, which allow only ex-post scrutiny of decisions by parliaments. Jennifer Smith observed: “The closed process of executive federalism can have the effect of immunizing controversies between the two levels of government from public debate, because the legislatures are excluded from these processes” (Smith 2003: 106). If important

¹ Two votes are assigned to each member state. In those states where two legislative chambers exist, each chamber can cast one vote. They are counted separately. In other states a parliament has two votes.

decisions are at stake, the reverse may be true: “Paradoxically the very practice that normally closes out the public occasionally lets them in. When there is sharp, deep conflict between the governments the public gets to see through the cracks” (Smith 2003: 107). Such an opening occurs in processes of constitutional amendment. Here provincial parliaments not only provide arenas of public discussions, they also prove that their veto power can be relevant to settle intergovernmental agreements. Under these conditions, First Ministers tend to fight for the interests of their jurisdiction. As a consequence, intergovernmental negotiations turn into a highly politicized bargaining game. Beyond constitutional politics, parliaments hardly get engaged in intergovernmental politics. Neither the Canadian constitution nor institutional reforms have extended their involvement in multilevel governance; in practice, parliaments have not tried counteract the closure of executive cooperation. “So far neither the federal parliament nor provincial legislatures have taken an active role in tackling federal-provincial issues” (Bakvis and Baier 2005: 4).

b) Inter-parliamentary relations

The third dimension of multilevel parliaments is hardly visible in Canada so far, while it got a real boost in the EU during the last decade (Neunreither 2006). During the late 1990s, members of national parliaments began to extend contacts with their counterparts of other parliaments, mostly with those from neighbouring member states. Moreover, they meet, on a more or less regular basis, with members of the EP representing their own country. In order to have direct access to European actors, they set up bureaus in Brussels. Meanwhile, the “Conference of Community and European Affairs Committees of Parliaments of the European Union” (COSAC, according to the French acronym) has turned out as an important institution. Established as a forum for mutual information, the Conference evolved into a kind of service institution for national parliaments. Its current activities focus on developing coordination procedures designed to make subsidiarity control effective. Responding to the Lisbon Treaty, the EP has started similar efforts to bring parliaments together. It proposed to launch a “legislative dialogue” with national parliaments which should stimulate discussions on European policies parallel to formal procedures.

Recent Treaty amendments endorse this development. Article 12 (f) TEU lays down that national parliaments should contribute to good governance of the Union by cooperating with the EP and with parliaments of other member states. Moreover, the procedure of subsidiarity control compels parliaments to coordinate their opinions. While the number of votes required for committing the Commission or the Council and the EP to reconsider an initiative for legislation can be achieved by unilateral actions, only votes based on similar reasoning are likely to influence consideration of European institutions. As a consequence, the new Treaty has stimulated efforts to improve inter-parliamentary cooperation in the EU, which in the past has been practiced informally (Neunreither 2006).

So far it is difficult to evaluate the effects of these patterns of “multilevel parliamentarism” (Crum and Fossum 2009). At the end, they may fulfil only a symbolic function, if not generate “much ado about nothing” (Raunio 2005). However, by establishing networks of communication, national parliaments can profit when fulfilling their new tasks: Inter-parliamentary relations can constitute platforms for coordinating decisions on matters of subsidiarity. On this basis, it is probable that national parliaments can influence agenda-setting by the Commission. In European legislation processes, they can profit from information on negotiation position of member states that allow them to exert their power against their representative in the Council in a strategic way and escape looming dilemmas of multilevel policy-

making (Benz 2004) In particular, they should be able to adjust mandates to progress in negotiations and focus their scrutiny on essential issues. Finally, parliaments can contribute to generate a European public space for discussing policies and link these discussions to national public debates.

After a period of internal adjustment (“Europeanisation of parliaments; Auel and Benz 2005), this evolution of multilevel parliamentary relations can be considered as additional step in a process leading to a resilience of parliaments in the EU. To be sure, executives of member states and bureaucrats in the Commission still have more power compared to parliaments than might conform to normative theories of democracy. Nonetheless, there is no unidirectional trend towards “executive federalism”. Rather we observe a “tug of war” between executives and parliaments in a polity of divided powers. Efforts of parliament to come to terms with the complexity of multilevel governance are worth to be paid attention, not the least in view of similar problems of democracy which notoriously exist in multilevel and federal systems in general.

Given the state of research, we have no indications that Canadian parliaments have taken major steps in the direction European parliaments are heading to. Inter-parliamentary communication apparently is limited. Participation of the federal parliament in a number of multilateral and bilateral inter-parliamentary associations or groups mainly serves to exchange information and ideas and to strengthen mutual understanding among nations. Amongst the parliaments of the provinces, only the “Assemblée Nationale” of Quebec maintains an “extensive network of relations”² with other parliaments or inter-parliamentary organizations, but most of these concern parliamentary institutions outside Canada (Beaudet 1989). Federal and provincial parliaments of Canada participate in the Commonwealth Parliamentary Association (CAP), an organisation including parliaments from the UK, South Africa, Australia and New Zealand. Founded in 1911, the purpose of this organisation is to discuss general issues of parliamentary democracy. Representatives of Canadian parliaments meet in a regional subdivision of this organisation, which is used to support staff of parliaments. The House of Commons maintains international contacts, e.g., via the “Canada-United States Inter-Parliamentary Group”, which exists since 1949. As regards to its functions, but not as regards the level of activities, these organisations come close to the COSAC in the EU.

All these activities do not relate to issues dealt with in multilevel governance. Lacking in Canada are channels designed for communicating opinions on topical political issues of multilevel governance in the federal system. Since the vertically integrated party system has dissolved, intra-party communication hardly compensates for this deficiency. So far, inter-parliamentary activities have remained limited and did not parallel the development of inter-governmental relations among executives.

4. Explaining variation in multilevel activities of parliament

The variation in patterns of multilevel activities of parliaments in Canada and the EU is astonishing, if we consider the longer history of the Canadian federation and the similar chal-

² <http://www.assnat.qc.ca/eng/associations/index.html>

allenges of multilevel coordination in both federations. Canadian parliaments should have been able to adjust to the rise of intergovernmental relations at least since the 1970s, when the European Community still constituted more an intergovernmental regime rather than a supranational federation. Moreover, the devolution of powers in Canadian federalism should not only have strengthened parliaments of the provinces, but should also have drawn attention of parliaments to intergovernmental issues.

At a glance, institutional factors seem to cause these differences in the evolution of multilevel parliaments. In comparative research on federalism, Canada represents a dual federalism with powers between levels being clearly separated. In contrast, the EU conforms to a cooperative type of federalism, since powers are shared between levels (Hueglin and Fenna 2006; McKay 2001). Moreover, member state governments are represented in EU legislation and are the masters of the Treaties, while provinces in the Canadian federation have no say in federal legislation. However, both institutional features cannot explain activities of parliaments. In combination with decentralisation, separation of powers in Canada rather fosters the need for intergovernmental coordination. Moreover, the preponderance of intergovernmental over intra-governmental federalism, i.e. the lack of an institutionalized representation of provinces at the federal level, provides no convincing reasons why parliaments have hesitated to engage in multilevel activities.

In research on comparative federalism and on European integration, change in multilevel patterns of politics has been often explained by referring to preferences and powers of corporate actors (Bolleyer 2009; Filippov, Ordeshook and Shvetsova 2004; Kelemen 2004; Marks 1996; Moravcsik 1998; Riker 1964). Transferred to parliaments, this approach would require us to show, that parliaments in European member states are more interested in multilevel issues and cross-border communication than Canadian parliaments. Moreover, capacities of European parliaments to process information and their powers to control the executive should be higher compared to their Canadian counterparts. Indeed, the EP works as a driving force of inter-parliamentary relations, which it uses in order to influence the European agenda. However, national parliaments have different preferences. Even if it is likely that European affairs are considered as highly relevant, members of national parliaments tend to be more interested in those policies that raise attention in public. As a rule, European policies are not considered as relevant to attract votes (Saalfeld 2003). Whether parliaments of EU member states possess higher capacities and powers than Canadian parliaments needs to be investigated. Be that as it may, their capacities in multilevel governance result from institutional reforms and more or less intense struggles with the executive. Therefore, the question would be why Canadian parliaments did not pursue similar policies. All in all, an actor-centered explanation of the differences outlined above seems not very convincing.

Institutionalist and actor-centred theories can be combined in a framework focusing on the interplay of governance mechanisms, i.e. patterns of interactions in politics and policy-making that are generated and stabilized by institutional frameworks. According to such an approach, the changing role of parliaments is determined by mechanisms of intergovernmental and intra-governmental politics. Depending on the particular mechanism of interaction, patterns of intergovernmental governance can be more or less accessible to intervention by external actors like parliaments without their operation being undermined. Intra-governmental mechanisms of politics define the discretion of executives and the incentives of parliaments to engage in scrutiny and control. In both regard, a comparative study of Canada and the EU reveals significant differences.

Leaving aside variations between policies (Scharpf 2006), joint decision-making must be considered the dominant mechanism of multilevel governance in the EU. According to Fritz W. Scharpf, it constitutes “a constellation, in which parties are either physically or legally unable to reach their purposes through unilateral action and in which joint action depends on the (nearly) unanimous agreement of all parties involved” (Scharpf 1997: 143). This is the typically mode of policy-making applied in EU legislation according to the “Community Method”. Here lower-level governments, in this case those of the member states, participate in decision-making with veto power, but in order to pass a law they depend on an initiative of the Commission which they can only modify by a qualified majority or by a unanimous decision. Thus powers between the EU and national governments are shared with the former having the right to legislate and the latter possessing the right to veto. Under these conditions, making policies requires negotiations which became rather complicated since the EP has to be consulted and since the enlarged Union to now includes 27 member states. Finding necessary majorities or unanimity requires strategic and flexible behaviour of national representatives, who are supported by a standing committee of diplomats in Brussels. The Council turned from an intergovernmental body into a real European institution working in a growing distance from national politics. This is the reason why national parliaments became suspicious, why trust between executives and majority parties in parliament eroded, and why parliaments tried to restore accountability relations. Confronted with the contradiction that responsible governments are strongly committed in closed European negotiations, they tried to become players in the multilevel system on their own right.

In Canada, intergovernmental agreements result from voluntary negotiations among federal and provincial governments. Even in policies where coordination is essential to fulfil tasks, no constitutional provision stipulates obligatory cooperation, the most important exception being constitutional amendments affecting fundamental rules of the federal order. As a rule, intergovernmental agreements allow individual provinces to opt out. More often than not they are concluded bilaterally between the federal government and individual provinces (Bakvis and Skogstad 2008; Painter 1991). Compared to joint decision-making, actors’ commitments in voluntary negotiations is lower. As a consequence, accountability relations of governments to their parliament remain intact. The notorious complaints about executive federalism in Canada seem to contradict this argument. However, if governments have alternative options to intergovernmental agreements, they cannot abdicate their responsibility for decisions, even if these result from multilevel negotiations. On the other hand, when parliaments tie the hands of their government, they do not risk a deadlock in case there is no agreement among all governments. For this reason, parliaments in Canada have less reason to get direct access to multilevel governance or to by-pass their government.

Considering mechanisms of democratic politics corroborates the explanation of variation, we observed in multilevel parliament in the EU and in Canada. These mechanisms can be categorized according to Arend Lijphart’s typology of executive-legislative relations (Lijphart 1999). In the EU, parliamentary democracies exist only at the lower levels, while division of powers between the Commission, the Council and the EP generated a particular system of consensus democracy. Even at the national level, in most member states we find a clearer division of power between the executive and legislative than in Canada, if not patterns of consensus democracy, where the intensity of party competition is low (Lijphart 1999: 255). Certainly, the EU includes the British parliament, and all member states are governed according to the rule that the government needs the support of a majority in parliament. However, in most states the legislative institutions either consist of two chambers, or they require govern-

ments to be supported by formal or, in case of minority governments, issue-specific coalitions of parties. In fact, the Westminster system is an exception. This fragmentation gives parliaments more leeway to develop their structures and strategies independent from the executive. Moreover, due to the fragmentation of powers at the European level, multilevel governance is only loosely coupled to party competition (Benz 2010). Accordingly, the close commitment between executive and majority parties in parliament, typical for parliamentary systems, have attenuated, and so have done the basic mechanism guaranteeing the power of parliaments. This has led parliaments to seek for compensation by multilevel activities.

In contrast to patterns of democracy existing in the EU, Canadian parliaments follow the rules of the “Westminster system”, which explains why executive federalism has prevailed. There is still a close connection between the government and the governing party, which is reinforced by intense party competition. Under these conditions, the government profits from wide room for manoeuvre in intergovernmental relations, but the majority party in parliament has the power of the last resort. Therefore, “first ministers are able to speak with one voice for their constituents and to make commitments that they will be able to enforce”. (Simeon and Nugent 2008: 92). But majority parties in parliament can rely on their veto power. For this reason, attempts to institutionalize intergovernmental negotiations have turned out as not very successful (Bolleyer 2009). Due to the contradiction between competitive democracy and cooperative federalism (Papillon and Simeon 2004), intergovernmental policy-making has not evolve into an autonomous arena and remained subject to the principle of parliamentary sovereignty. Accordingly, a majority in parliament can hold the government accountable when intergovernmental agreements are made and members of the executive have to take into account interests of majority parties (Carty and Wolnietz 2004). Therefore, parliaments have seen no need to engage in multilevel activities, at least not in inter-parliamentary relations.

In a nutshell, European multilevel governance tends to give preponderance to joint decisions and negotiations at the European level while loosening the links between the executive and parliaments in national democratic systems, in particular in those where concentration of powers and intensity of party competition is low. While fragmentation of powers in democratic systems provides for the discretion executives need to come to joint decisions, it allows parliaments to develop their capacities and procedures to influence multilevel governance. In Canada, parliamentary democracy with power concentrated in executives and their party in parliament prevailed and constrained the evolution of intergovernmental policy-making. The mechanism of voluntary negotiations may not create the degree of coordination and the stability of multilevel governance necessary to meet the challenges of de-territorialised policies, but it is compatible with the mechanism of competitive democracy at the federal and the provincial level. For this reason, trends towards multilevel parliaments are less visible in Canada than in the EU.

The interplay of the different mechanisms of inter- and intra-governmental politics can explain variations in how parliaments have responded to multilevel governance. But the outcome constitutes not a kind of equilibrium of compatible mechanisms. Rather mechanisms continue to interact and produce dynamic developments. Moreover, in Canada like in the EU, patterns of intergovernmental coordination are in flux. In Canada, the Council of the Federation can be regarded as an attempt to institutionalize cooperation between the provincial governments. Moreover, regional cooperation between provinces is on the rise. Both developments foster decentralisation which has led the federal government to search for new ways to influence policy-making at the lower levels. In the EU, legislation by the Council has been met with increasing resistance in member states, and the extended involvement of the Euro-

pean Parliament has not compensated for a loss in legitimacy. Therefore, new modes of governance have been introduced (Tömmel and Verdun 2008). Instead of coordinating policies between levels by negotiations and agreements, common goals should be achieved by decentralised decisions including public and private actors, guided by standards, motivated by competition and aiming at mutual learning. For this purpose, the Commission and the Council invented the “Open Method of Coordination”. In a similar vein, the Canadian “Social Union Framework Agreement” stipulated that governments monitor and evaluate outcomes of their social programs, share information and best practices and work on comparable indicators to measure progress related to shared objectives. Although the SUFA had hardly any effects of intergovernmental relations, later agreements on social policies have resumed this policy approach (Graefe 2005). Empirical studies investigating into the democratic quality of these new mechanisms of multilevel coordination did not find much evidence for an involvement of parliaments. (Simeon and Cameron 2002; Duina and Raunio 2007; Zeitlin, Pochet and Magnusson 2005).

Democratic systems are undergoing changes, as well. In Canada and in Europe, regionalisation and pluralisation of party systems and the increasing role of interest groups and experts in policy-making have modified the process of democratic politics. While these developments only reinforce fragmentation in European democracies, they may cause a significant transformation of the “Westminster system” in Canada. It is difficult to forecast the effects, which these changes, if they continue to evolve, will bring about. In any case, we have to expect impacts on the configuration of multilevel governance, in one way or another.

5. Conclusion

In order to assess the consequence of changing multilevel governance for democracy, we have to consider the interplay of changes in parliamentary democracy and modes of governance. Although this paper is not guided by a normative perspective, the account of empirical observations sheds new light in debates about multilevel governance and democratic legitimacy. In contrast to widely shared opinions, the comparative study of Canada and the EU give us no reasons to complain about a general decline of parliaments or an end of democracy due to increasing intergovernmental coordination. Multilevel policy-making and parliamentary democracy are difficult to harmonise, but they are not necessarily incompatible. The rise of multilevel governance in the EU shows that parliaments can react to intergovernmental policy-making among executives. And for Canada, a closer look at executive federalism reveals its tight coupling to parliamentary democracy, which, however, may dissolve in the future. Apparently, parliamentary democracies and multilevel governance co-evolve in processes of mutual adjustment. Driving forces can be traced back to mechanisms inherent in the particular patterns of intergovernmental and intra-governmental politics.

To better understand these developments and their consequences, we need more comparative research including studies on different multilevel polities. Canada and the EU provide good cases for comparison. Future research should reveal how parliaments have reacted to the evolution of multilevel governance. They should provide better information about reforms or real changes of processes in parliaments, about changing interaction of executives and parliaments, about inter-parliamentary relations and relations of parliaments to other institutions at different levels. In addition, comparative research should allow us to better assess the consequences of multilevel governance on democracy. In this regard, there is urgent need to con-

sider trends towards new modes of governance and towards the inclusion of private actors in governance arrangements. Finally, an important aim of future research is to explain variations in the co-evolution of multilevel governance and parliamentary democracy. Studies in this field could make significant contributions to advance theories of democratic multilevel governance.

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