# INTERGOVERNMENTAL IMMIGRATION AGREEMENTS AND PUBLIC ACCOUNTABILITY

F. Leslie Seidle

The director of the IRPP's research program Diversity, Immigration and Integration, Leslie Seidle observes that in virtually all federations, subnational governments have no say in the selection of immigrants. Canada is an exception in that regard. Here he examines the evolution of intergovernmental agreements in that field and the roles they have conferred on provincial and territorial governments in immigrant selection. "While not typically front page news, he says, these agreements have become key elements of Canada's immigration landscape." And while they have proven to be important instruments of innovation, notably in the area of language training, he finds that there is a need for improvement in outcome measurement and public accountability. He makes some recommendations to that effect.

Les gouvernements infranationaux de la quasi-totalité des fédérations n'ont aucune voix au chapitre en matière de sélection des immigrants, rappelle Leslie Seidle. Le Canada fait donc exception à la règle. Le directeur de recherche du programme Diversité, immigration et intégration de l'IRPP examine ici l'évolution des accords intergouvernementaux et les différents pouvoirs accordés aux gouvernements provinciaux et territoriaux dans ce domaine. « Ces accords ont rarement défrayé la chronique, observe-t-il, mais ils sont devenus un élément clé de la politique d'immigration canadienne. » Ils se sont aussi révélés d'importants vecteurs d'innovation, pour ce qui est notamment de la formation linguistique. Mais des améliorations devraient leur être apportées en ce qui concerne l'évaluation des résultats et la reddition de compte. L'auteur propose à cet égard plusieurs pistes de solution.

In virtually all federations, subnational governments have no say in the selection of immigrants. Canada is an exception. What was traditionally a federal activity has, over the past three decades, been shared with Quebec and, subsequently, with other provincial governments.

This shift occurred in large measure through a series of bilateral agreements between the federal and provincial/territorial governments. Intergovernmental agreements also govern the provision of settlement and integration services to newcomers in a number of provinces. The result has been a diffusion of government action in the immigration field — a development that can be seen as consistent with the dynamics of Canadian federalism, but that for some raises concerns.

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Under the *Constitution Act, 1867*, the federal and provincial governments have concurrent jurisdiction over immigration, although Ottawa has paramountcy. In light of Canada's initially centralized form of federalism, it may seem surprising that provincial governments were given any authority to legislate on immigration. But as historian Robert Vineberg has pointed out (in a 1987 article in *Canadian Public Administration*), immigration had been a preoccupation of the (pre-Confederation) colonial governments for more than a century, and thus "it only made sense that all levels of an underpopulated agrarian country would be actively interested in immigration."

As the country evolved, processes of executive federalism, including regular meetings of federal and provincial (and later territorial) ministers and officials, developed in a number of policy fields. With immigration, this did not occur until a good deal later. Although federal-provincial conferences on immigration were held annually between 1868 and 1874, a practice of annual meetings of federal-

provincial-territorial (FPT) ministers did not emerge until 2002. A range of FPT committees and working groups of officials meet more frequently to exchange information and discuss policy and program developments.

The first intergovernmental immigration agreement was signed as early as 1868, to allow provincial governments to appoint immigration agents abroad. However, for most of the following century the federal government managed immigration as a national program, with a very limited provincial say. In a 1974 Green Paper, the federal government stated that it intended to involve provincial governments more closely in immigration matters. The new *Immigration Act,* adopted in 1976, provided that the minister could "enter into an agreement with any province…for the purpose of facilitating the formulation, coordination and implementation of immigration policies and programs."

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Prior to adoption of the 1976 act, policy-makers in Quebec, concerned aboout the province's slowing population growth, began considering how to attract more immigrants. As it had done in other areas during the Quiet Revolution, the Quebec government began asserting its authority by seeking a role in recruitment. The first of four immigration agreements with the federal government was signed in 1971. Its terms were modest: the Quebec government was authorized to post an immigration counsellor in designated countries. The 1975 agreement gave Quebec a role in immigrant selection, and this was enhanced in 1978. Under the McDougall/Gagnon-Tremblay accord, signed in 1991, Quebec obtained the power to select all economic immigrants to the province (the federal government can overrule candidates only for serious security or medical reasons). Quebec also assumed responsibility for all reception and integration services for new arrivals. To that end, the federal government provides Quebec with an annual grant. Each year's payment is calculated according to an "escalation factor." The grant has grown from $76 million in 1991/92 to $254 million for 2010/11.

Following implementation of the 1976 act, a number of other provinces expressed interest in an immigration agreement. Nova Scotia and Saskatchewan signed agreements in 1978, and a number of others followed. However, none of these allowed for a provincial role in selection. In the early 1990s, the three Prairie provinces and some of the Atlantic provinces began to express concern about not receiving a sufficient share of immigrants. Manitoba raised an additional issue: that, as a result of the selection criteria for economic immigrants, the province's need for workers in skilled and semi-skilled trades was not being met. The federal government, unwilling to copy the 1991 Canada-Quebec accord, developed the Provincial Nominee Program (PNP), which would allow each province or territory to identify a limited number of economic immigrants to meet specific regional needs and/or to receive priority attention for immigration processing. The new program was intended to be modest: the 1996 target was 1,000 nominees.

This innovation led to a series of intergovernmental agreements. Manitoba was the first province to open negotiations, and since its 1998 agreement, it has used the PNP quite aggressively to attract more immigrants. All the other provinces, except Quebec, have since signed agreements on provincial nominees, as have Yukon and the Northwest Territories (for further details, see table 1).

It was projected that 20,000 economic immigrants would arrive in 2009 through PNPs, and Citizenship and Immigration Canada (CIC) anticipates this could rise to 40,000 in 2010. Provincial governments have considerable flexibility to set criteria for choosing nominees, and the programs have become highly diverse. According to the Auditor General's 2009 report, there were then more than 50 different categories in PNPs. Along with other changes to the immigration system, notably the introduction of the Canadian Experience Class in 2008 (see the article by Arthur Sweetman and Casey Warman in this issue), provincial governments — as well as other actors such as employers and universities — now share control with the federal government over the composition of immigration.

In one sense, the developments described above can be seen as further evidence of what is sometimes called de facto asymmetrical federalism. However, the shift has involved not only governments but also private stakeholders. One view is that the increased role for employers should encourage greater responsiveness to labour market needs and trends. However, some stakeholders are concerned about the implications of the decline in the numbers of immigrants being admitted under

the Federal Skilled Worker Program (through the points system). Regardless of where one stands on these questions, one thing is clear: intergovernmental agreements have contributed to a significant diffusion of Canada's immigrant selection processes.

Turning to settlement and integration services, here also there has been a significant shift away from what was a solely federal responsibility. The Government of Canada began to fund settlement services in 1949 with a program to help refugees and the families of Canadian soldiers adjust to Canadian life. In 1953, it signed a cost-sharing language training agreement with all provinces but Quebec.

Settlement and integration programs grew considerably in subsequent decades. Unlike the situation in many other immigrant-receiving countries, where these services are provided by public servants, in Canada they are delivered by a host of nongovernmental organizations — often referred to as service provider organizations (SPOs) — through quasi-contractual contribution agreements. CIC currently has more than 500 such agreements across the country. In addition, some SPO-delivered services are funded by provincial governments, foundations and other nonprofit organizations such as the United Way.

CIC's budget for settlement and integration has risen significantly in recent years. Its projected spending for these programs (including the transfers to the Quebec, BC and Manitoba governments) for 2010/11 is almost $1.1 billion (in 2000/01 its spending was just under $328 million). Other federal departments, notably Human Resources and Skills Development Canada, also have programs to facilitate the economic and social integration of newcomers.

Until recently, most of CIC's funding was allocated to three programs:

- Immigrant Settlement and Adaptation Program (ISAP): Helps immigrants get services and integrate into their community; includes reception and orientation services, translation and interpretation, employment assistance, and counselling.
- Language Instruction for Newcomers to Canada (LINC): Provides instruction in either official language to adult immigrants for up to three years from the time they begin training.
- Host Program: Matches immigrants with established Canadians, who help them to improve their language skills, learn about Canadian society and develop networks.

In 2008, CIC introduced a "modernized" approach to settlement programming that is intended to allow greater flexibility and lighten the reporting requirements that apply to SPOs. Although the policy directions remain similar to those of the three programs described above, there is a greater emphasis on outcomes. Once the new approach is fully implemented, SPOs will be required to draw from activities in six streams and indicate how their projects will contribute to one of the following expected outcomes: orientation, language/skills, labour market access, welcoming communities, and policy and program development.

When the Quebec government took over reception and integration programs (under the 1991 accord), other provincial governments did not call for similar treatment. Rather, the federal government made the opening move, and this brought further change. As part of program review (launched in 1994), which was intended to reduce the federal deficit, the Government of Canada

TABLE 1. INTERGOVERNMENTAL IMMIGRATION AGREEMENTS IN CANADA

| Province/Territory | Date | Term | Provincial nominees |
|---|---|---|---|
| British Columbia | 2010 (initial agreement 1998) | 2015 | Included |
| Alberta | 2007 | Indefinite | Included |
| Saskatchewan | 2005 (initial agreement 1998) | Indefinite | Included |
| Manitoba | 2003 (initial agreement 1996) | Indefinite | Included |
| Ontario | 2005 | 2010 (extended to March 31, 2011) | Included |
| Canada–Quebec Accord | 1991 (previous agreements: 1971, 1975, 1978) | Indefinite | No |
| New Brunswick | 2005 (initial agreement 1999) | Indefinite | Provincial nominees only |
| Prince Edward Island | 2008 (initial agreement 2001) | Indefinite | Included |
| Nova Scotia | 2007 | Indefinite | Included |
| Newfoundland and Labrador | 2006 (initial agreement 1999) | Indefinite | Provincial nominees only |
| Yukon | 2008 (initial agreement 2001) | Indefinite | Included |
| Northwest Territories | 2009 | Indefinite | Provincial nominees only |

Source: Citizenship and Immigration Canada, *Annual Report to Parliament on Immigration*, 2009. http://www.cic.gc.ca/english/resources/publications/annual-report2009/index.asp (updated by the author).

offered to withdraw from managing settlement services in the other provinces on the basis that "it was not considered essential or appropriate for CIC to continue to be directly involved in the administration of these funds." Only the Manitoba and BC governments accepted the offer, and settlement and integration services were devolved to these provinces in 1998. In 2005, the federal and Ontario governments signed an agreement that provided for significantly enhanced spending on settlement and integration services in Ontario ($920 million in new investments over five years). Program administration remains in the hands of CIC, but the agreement established governance mechanisms that allow the Ontario Ministry of Citizenship and Immigration to participate quite extensively in planning and ongoing assessment. An annex to the agreement provides for the involvement of the City of Toronto — the only formal federal-provincial-municipal arrangement in this policy field.

The federal government, unwilling to copy the 1991 Canada-Quebec accord, developed the Provincial Nominee Program (PNP), which would allow each province or territory to identify a limited number of economic immigrants to meet specific regional needs and/or to receive priority attention for immigration processing. The new program was intended to be modest: the 1996 target was 1,000 nominees.

Since the Manitoba, BC and Ontario agreements were signed, language training has been expanded in each province, and a number of innovations in programming have been launched. This heightened activity is entirely warranted. Research has underlined that language ability has a major impact on the outcomes of Canadian immigrants, including whether they obtain employment in their field of education or training and, in some cases, whether they find work at all (at least during the initial period after their arrival). In all three provinces, in part due to the increase in federal funding after 2005, those who qualify (principally permanent residents) may now pursue language learning to a higher level than previously. For example, in 2006/07, BC's main program, English Language Services for Adults, was raised to Canadian Language Benchmarks (CLB) level 6. In Ontario, language training is now offered up to LINC level 7, which is the equivalent of CLB levels 7/8. In the other provinces where CIC is still responsible for administering settlement programs (Alberta, Saskatchewan and the four Atlantic provinces), LINC level 7 is the current standard.

As for innovation, devolution has allowed the BC and Manitoba governments to develop language programs that reflect their particular circumstances, such as the composition of immigration to the province and the needs of recent arrivals. For example, the BC Settlement and Adaptation Program includes language training that relies on flexible methods and informal settings to target newcomers who face multiple barriers to integration. A pilot initiative for immigrant seniors provides basic English-language training, along with information on Canadian services, life and culture, in small-group settings. In Manitoba, there have been a number of innovations, including an initiative to provide English-language training in the workplace. This program, whose cost is shared with employers, is customized to meet client and employer language needs and to accommodate work schedules. In 2007/08, more than 80 percent of the program's budget was spent outside Winnipeg (under its PNP, the Manitoba government has made a considerable effort to encourage immigrants to settle outside the capital).

Innovation in language training has occurred not only in the provinces that manage their own settlement services. In 2004, CIC launched the Enhanced Language Training (ELT) initiative, under which higher levels of language teaching (up to CLB 10) are provided to immigrants who seek to enter the labour force. ELT projects often include employment supports and bridging activities such as internships and mentoring. While such programming has limitations (for example, temporary foreign workers and recent arrivals who have become citizens are not eligible), it is clear that governments have been making an effort to assist newcomers in developing adequate language skills to allow them to get meaningful employment.

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As we look forward, there is a need for improvement in two related areas: outcome measurement and public accountability. On the first, there are some encouraging signs. As mentioned above, under CIC's "modernized" approach, SPOs

will need to demonstrate how their projects will contribute to one of five results and report on outcomes. There is a similar emphasis in the latest Canada-BC immigration agreement (signed in April 2010). In future annual reports to CIC, the BC ministry will be required to provide data using five outcome indicators, including improved English ability, ability to pursue employment goals and knowledge of Canadian systems and culture.

If the trend toward more extensive outcome measurement is encouraging, the same cannot be said of reporting requirements. Among the weaknesses in these rules are the following:

- As the transfer to the Quebec government is a grant, it is not obliged to report to CIC on how the funds are spent. There is some reporting on settlement programming in the annual reports of Quebec's immigration ministry. However, because part of the funding is transferred to other departments, notably education, the picture is not complete.
- Under their agreements, the relevant BC and Manitoba departments must report annually to CIC rather than to the public on the provision of settlement and integration services. The rationale for this form of reporting is unclear. By the mid-1990s (when the two agreements were being negotiated), intergovernmental agreements in various social policy fields were requiring public rather than government-to-government reporting (sometimes the "public" was defined as the residents of each province). The annual reports on settlement services are not released publicly. However, the author was able to consult all provinces' reports for 2007/08. While they contain a good deal of information on recent program changes, client numbers and spending, they contain virtually no data on outcomes (and they do not contain any material that could be considered sensitive).
- Under the Canada-Ontario Immigration Agreement, federal funding continues to be managed by CIC (the Ontario government also contributes significant resources, some of it for joint initiatives and some for programs it runs on its own). As is the case with CIC's spending in the six other provinces where it continues to manage settlement and integration services, there is no distinct report on these activities.

The Canada-Ontario agreement, which was set to expire in November 2010, has been extended to March 31, 2011. The upcoming negotiations provide a test case on both outcome measurement and public accountability. If the next agreement leads to devolution of settlement services to the Ontario government, as Queen's Park has requested, provisions on reporting outcome indicators similar to those in the recent agreement with BC should be included. Even if the programs are not transferred to Ontario, in light of the scale of the resources directed at settlement and integration services in the province and the quite extensive governance processes now in place, there should be a requirement that a *public* report (perhaps for joint release) be prepared each year. In a similar vein, regardless of the outcome of the negotiations with Ontario, future annual reports from the BC and Manitoba governments should be released publicly.

In a potentially even more ambitious move, CIC is apparently examining the possibility of preparing an annual report on the state of immigrant settlement in Canada. This would presumably include information provided by the BC and Manitoba governments drawn from their annual reports and, if devolution occurred, from the Ontario government. The Quebec government has traditionally resisted imposing requirements that entail reporting to the federal government. This should not derail a worthwhile initiative.

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An annual report on developments in settlement programming could bring together much useful information and data from participating governments. This would enhance learning across jurisdictions and among the organizations that play an increasingly important role in the settlement sector (including in program development). In light of these potential benefits, the current public investment of more than a billion dollars a year and, above all, the need to improve the outcomes of recent arrivals, enhanced measurement of the effectiveness of settlement and integration services would be in the public interest. So would a considerably higher level of accountability to Canadians for these activities.

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