

The 1997 Canada Child Tax Benefit: A Test of Béland, Rocco and Waddan's
Theory on the Implementation of Public Policy in Federations
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Abstract

In the 2016 book *Obamacare Wars: Federalism State Politics and the Affordable Care Act*, Béland, Rocco and Waddan study the implementation of so called “Obamacare” at the state level. The Patient Protection and Affordable Care Act introduced not one but several reforms to health policies, most importantly, the creation of state-based market-places for individuals to purchase health insurance with federal subsidies, a federally subsidized expansion of state Medicaid programs for low income families, and regulatory changes to require insurers to spend a minimum share of premiums on providing health care to members or face penalties. All of these required state-level action to implement making the Patient Protection and Affordable Care Act (PPACA) not just a complex policy but one with shared authority between Washington and the fifty states. Béland, Rocco and Waddan argue that the degree to which any one of these three policies was implemented in a given state can best be explained not by the ideology or partisanship of the state executive or legislatures but by the creation of intergovernmental networks and delegations of authority by policy legacies, institutional fragmentation and public sentiment, impacting each of the policies in each state. This paper asks whether this theoretical framework can provide a more general approach to the study of policy implementation of complex shared authority programs within federations. The test case is the introduction of the Canada Child Tax Benefit and associated reforms to provincial social assistance and programs to help low income families. All of the factors but one (delegation) identified by Béland, Rocco and Waddan were found to play a role in the present case. This could be due to the difference in policy sectors or to the difference in political institutions between the two nations.

Introduction

Public policy in federations often requires both national and sub-national governments to work together (Bakvis and Brown 2010). Policies adopted at the federal level can require significant participation by states or provinces to be implemented. Nevertheless the study of policy implementation is often seen as a topic more suited for the disciplines of administration and management than political science. One notable exception is Béland, Rocco and Waddan (2016). These authors studied the implementation of the three core elements of *The United States Patient Protection and Affordable Care Act* (2010), hereafter referred to as the *PPACA*, across the fifty US states. Those elements were:

- The creation of health insurance exchanges for the sale and purchase of subsidized health insurance policies for individuals and families ineligible for Medicaid
- The expansion of Medicaid (state insurance programs for low-income families and individuals which are subsidized by Washington)
- Regulatory reform to reduce insurance premium increases and force insurers to spend the bulk of their premiums income on providing care to clients (Béland, Rocco and Waddan 2016: xiii).

Their conclusion was that electoral politics in the guise of partisanship and the degree of polarization in the various states does matter to some degree as did public sentiment. However, by themselves they provide an incomplete and misleading explanation as they cannot account for differences in the pattern of implementation seen across the three major elements of the *PPACA*. Each of the three elements of the *PPACA* had a distinct politics as to its implementation created by the degree to which there were thick or thin policy legacies pertinent to each element, policy legacies that would facilitate negotiations and compromises between the federal governments and the states and which also sometimes made implementation less visible to the public and therefore less susceptible to public sentiment. Equally important was the degree to which authority over each element was fragmented between Washington and the states. Regulatory

reform was the area where authority in the United States federation was least fragmented. The federal government had tools to punish states for failing to follow its lead on regulatory reform and this facilitated change. Also important was the legacy of existing policies which often times meant there were existing delegations of authority to public servants for regulatory reforms and also existing mechanisms for negotiations between federal and state officials on regulatory matters. Finally, regulatory reform also benefited from the degree to which it primarily occurs below the level of public visibility in sub-governmental systems and was therefore shielded from the impact of public sentiment. Medicaid expansion proved to be something of a middle case both in terms of the fragmentation of authority within the United States federation and in terms of policy legacies. The federal government offered states lucrative incentives to expanded eligibility but the federal government could not compel the states to accept their offer. Meanwhile, in terms of policy legacies, there was a long established process for states to negotiate variations in the terms by which the Medicaid program operates that helped defuse opposition. However, expansion also often required executive and legislative actions that were highly visible and susceptible to negative public sentiment. Meanwhile the health insurance exchanges benefited from none of these factors. Authority was fragmented in that there was little the federal government could do to either punish or reward states that followed their lead. As new policy tools in most states, there were only scant legacies of institutions in place from previous policies to facilitate negotiations over them with Washington that could be used to defuse opposition. As well, the legislative and administrative actions need to bring them into operation would be highly visible to the public, making them a focus for negative sentiment when it existed. Consequently the regulatory reforms so as to reduce the cost of insurance and the proportion of premiums insurers spent on health care for their clients were the most

commonly implemented elements of the *PPACA*, followed by Medicaid expansion. Even in most of the states with Republicans in control of both the governorship and the state legislature, regulatory reform occurred and many also adopted the Medicaid expansion. The creation of the insurance exchanges, a completely new policy tool in most states, requiring legislative action and with no existing mechanisms for dialogue and high public visibility, was the least implemented element of the *PPACA* (Béland, Rocco and Waddan: 155-158).

The purpose of this paper is to test how well Béland, Rocco and Waddan's conclusions travel. If we wish to explain policy implementation within federal structures in a different country and/or policy area, can we do so by following their lead and examining the degree to which authority is concentrated or fragmented within the federation, the existence of policy legacies that create delegations of authority within the subnational governments and mechanisms for negotiating between national and sub-national governments that can be used to defuse opposition, along with public sentiment toward the reforms. Specifically, the paper will test Béland, Rocco and Waddan's conclusions by looking at Canada's creation and implementation of the Canada Child Tax Benefit, hereafter CCTB. The conclusion reached is that although the variables identified by Béland, Rocco and Waddan sometimes operated in different ways, all but one did have the impact that they predicted. The one which did not was the degree to which policy legacies delegated authority from political actors to public servants in sub-national governments (The US states or in Canada provinces) to make changes required to implement the federal policy. Two possible explanations for this difference are the sector involved and/or the nature of Canada's political institutions. The regulatory reforms required to implement the *PPACA* had to do with the regulations of market activities, especially the premium schedules created annually by insurance companies. This is something often delegated to an authority

operating at arms-length, through some mechanism or another from executive and legislature in both Canada and the US. On the other hand, the regulatory reforms necessary for implementing the CCTB did not have this advantage. Second, Canada is a parliamentary democracy.

Consequently, when the governing party has a legislative majority, passing legislative changes does not generally present a major hurdle and regulatory changes enacted by the Premier and his or her cabinet ministers are not likely to face serious push-back from the legislature.

The Canadian Federation, The Canadian Welfare State, Social Assistance and Child Benefits up to the CCTB

Canada is a parliamentary democracy with a federal constitution comprised of ten provinces and three territories. Unlike the provinces, the three territories (which comprise the northern half of Canada) do not enjoy constitutional sovereignty within their spheres of authority, but rather exercise authority delegated to them by the federal parliament.¹ The division of powers within the Canadian federation is laid down primarily in Sections 91 through 95 of *The Constitution Act, 1867*.² These sections, along with the interpretations made of them by the judiciary, placed the majority of policy areas that comprise the welfare state in the hands of the provinces. A constitutional amendments was required in 1941 so that the federal parliament could create a nation-wide unemployment insurance program and further amendments in 1951 to create a pension plan and 1964 to create an income related pension. In the latter case, provinces can opt

¹ The territories are also sparsely populated and are much more reliant on the central government for both financial and administrative resources than are the provinces. However, in last forty years, there has been a trend towards treating the territories as equivalent, though not equal, to provinces in federal relations. For example, territorial leaders and public servants are generally invited to any federal provincial meetings, although they do not necessarily have the same say.

² Prior to adoption of *The Constitution Act, 1982*, this document was known as *The British North America Act*. Along with this name change, the *Constitution Act, 1982* also introduced the constitutional enshrined *Charter of Rights and Freedoms*, terminated the United Kingdom's oversight of Canada's constitution by creating a constitutional amending procedure to replace the requirement that amendments be made by the UK parliament in London, and also provided for a handful of other amendments.

out and create their own schemes, as Quebec has done (Pal 1986: 91; Babich and Béland 2009: 258 and 256; Rice and Prince 2013: 65 and 80-81). However, it needs to be noted that although Quebec has its own pension plan, the contribution rates, benefits and other rules are identical to the Canada Pension Plan that covers the rest of the country.³ Although, the federal government has limited constitutional authority over the programs that comprise the Canadian welfare state it does nevertheless have important levers and capabilities to act in this policy sphere. The most important of these levers is the so-called “federal spending power.” The federal parliament can make gifts and grants to any individuals, institutions, or provinces that it wishes to. It can also provide tax relief to individuals and institutions. For some, the federal spending power has been an important tool of nation building that ensures all Canadians enjoy the same standard of living, opportunity, and public services. However, some have seen its use as an “invasion” of the constitutional autonomy that provinces were promised in *the Constitution Act, 1867* and as a tool by which Ottawa can counter the policies and goals of the provinces (Telford 2003).

The province where the federal spending power has been most controversial has been Quebec. In the post-war era, when Ottawa offered cash grants to the provinces in return for them creating modern welfare-state programs, often at a rate of fifty cents on the dollar expended, the conservative Union Nationale government of Quebec refused to accept many of the grants, arguing Quebeckers did not need the programs and the offer was a violation of Quebec’s constitutional sovereignty (McRoberts 1993: 123; Binette 2000: 51-52). In the early 1960s the Union Nationale was defeated and a new Liberal Party government expressed a desire to build a modern state but also insisted that it could not accept federal interference within its constitutional jurisdictions. The solution was a demand from Quebec that provinces should be

³ Alongside of the preservation of its constitutional rights, opting out of the Canada Pension Plan allowed Quebec to control the provincial plan’s surplus and invest it in ways that would facilitate the development of Quebec’s economy (Babich and Béland 2009: 264).

allowed to “opt out” of new shared-cost programs but still receive the same federal funding as other provinces (Tremblay 2000: 158). It does need to be noted that this was often an argument about principles rather than practical policy. As the Canadian Pension Plan had already shown, even when Quebec insisted for constitutional reasons that it had to have its own program, the resulting opted out program often faithfully ran parallel with the federal scheme (Noël 2013: 258-259; Béland and Lecours 2008: 56-57).

This debate over the constitutional terms of social policy was part of a much broader debate sparked by Quebec on its place in the federation that would lead to a nation-wide debate on constitutional reform that would last for roughly the next thirty years. This era would witness:

- A major package of reforms (*The Victoria Charter*) that was agreed to by all the provincial leaders but which Quebec’s premier, Robert Bourassa subsequently backtracked on when he witnessed the negative reaction of his province in 1971.
- A failed referendum in Quebec on leaving the federation in 1980. Central to the “No” campaign, was a promise by Prime Minister Pierre Trudeau that a No vote on Quebec sovereignty would be a Yes vote for constitutional reform in Canada.
- A major constitutional reform signed into law (*The Constitution Act, 1982*) that was based on an agreement Quebec’s Premier had no role in negotiating and which the provincial legislature has to this day refused to ratify.
- An attempt at constitutional reform aimed at enticing Quebec to “sign” the 1982 document that was rejected by two other provinces (*The Meech Lake Accord* of 1987).
- A second attempt at getting Quebec to “sign” the 1982 document that was rejected by Quebec and most other provinces in a series of provincial referendums (*The Charlottetown Accord* of 1992).
- A second failed referendum on Quebec independence in 1995. This time only won by the NO side by less than one percent of the vote.
- A 1996 federal law that bound parliament not to consider any further constitutional amendments that impacted on Quebec until Quebec’s legislature had ratified it.⁴
- A 1998 decision by the Supreme Court of Canada that if a clear majority of the population of any province voted for separation, the federal government and the other

⁴ To be more precise: *The Constitutional Amendments Act, 1996*, states that the federal parliament will not entertain any amendments that constitutionally require the unanimous endorsement of the provinces or any that require the endorsement of at least 7 provinces representing at least 50% of the population until the legislatures of Quebec, Ontario and British Columbia plus two of the three provincial legislatures representing 50% of the prairie population and at least two of the four legislatures representing 50% of the Atlantic population ratify the amendment. The net result of this new formula being a law that grants Quebec the constitutional veto that nationalists in that province have long demanded, at the cost of giving that same veto to others as well. However, it is a veto that is granted by ordinary statute, not a constitutionally enshrined amendment.

provinces would be honor-bound to fairly negotiate terms with the departing province (Russell 2004).⁵

As seen here in this brief discussion, Ottawa can bribe and cajole the provinces to follow its lead on social policy issues, but it cannot force them to comply. As well, the provinces, especially Quebec, jealously guard their constitutional jurisdictions. In fact, Quebec has been so determined to express its autonomy that it has twice held referendums on independence in the last forty years. Not surprisingly, modern Canada is often seen as one of the most highly decentralized federations in the world (Smith 2010: 42). Bakvis and Brown (2010: 502) describe policy-making in the Canadian federation as involving “non-hierarchical coordination”. This decentralization along with differences in economic and political factors helped contribute to the creation of significantly different social assistance policies within the ten provinces. Although 20th Century Canada, when looked at from the macro-level, seemed to be a fairly typical example of the liberal welfare state model (Esping Andersen 1990), Boychuk (1998) when looking at variation among the provincial social assistance regimes, identified five unique regime types. This fragmentation of authority would, according to Béland, Rocco and Waddan’s theory (2016), lead one to predict a new policy would be somewhat challenging to implement in Canada’s federation. We will also subsequently see that this policy legacy of different social assistance regimes, as also predicted by the theory, would have consequences for how provinces implemented the CCTB.

⁵ The 1987 *Meech Lake Accord* died when the Manitoba’s and Newfoundland & Labrador’s provincial legislatures failed to adopt it and the 1992 *Charlottetown* package of constitutional amendments was rejected after a referendum. It should be noted that the defeat of this package was very broad-based. The No side won not only in Quebec, but in six of the other provinces as well: including Ontario, British Columbia and Alberta, which along with Quebec represent the four largest provinces and comprise approximately 85 percent of Canada’s population (Russell 2004: 151-152 and 227).

Table 1. Boychuk's five provincial social assistance regime types

Regime Type	State Role	Weakens Market Dependence	Weakens Family Dependence	Stigmatizing (dualism between dependents and non-dependents)	Stratifying (different treatment for different beneficiaries)
Residual (provide minimal benefit for all in need)	Negative	No	No	No	No
Market/Family Enforcement (enforces preservation of market discipline and family)	Positive	No	No	Actively Stigmatizes All Beneficiaries	No
Market Performance (goal encourage labour market participation)	Positive	No	May discourage family participation in favour of market participation	No	Differing levels of benefits for those who participate in employment and training
Conservative	Positive	Different for beneficiaries seen as deserving and non-deserving	Different for different beneficiaries may discourage labour market participation in favour of family participation	Different for beneficiaries seen as deserving and non-deserving	Differential benefits to recipients based on non-market status hierarchy
Redistributive	Positive	Yes for all beneficiaries	Yes for all beneficiaries	No	No

(Source: Boychuk 1998: 15-16)

Table 2. Provinces by Boychuk's social assistance regime type and their evolution.

	1930	1950	1970	1990
Ontario	Conservative	Conservative	Conservative	Conservative
Manitoba	Conservative	Conservative	Conservative	Conservative
Nova Scotia	Market/Family Enforcement	Conservative	Conservative	Conservative
Newfoundland & Labrador	Redistributive	Conservative	Conservative	Conservative
Saskatchewan	Residual	Residual	Residual	Market/Family Enforcement
Quebec	Residual	Residual	Redistributive	Hybrid of Market Enforcement/Performance
Alberta	Conservative	Conservative	Conservative	Market/Family Enforcement
British Columbia	Conservative	Conservative	Conservative	Market Performance
New Brunswick	Market/Family Enforcement	Market/Family Enforcement	Market/Family Enforcement	Market Performance
Prince Edward Island	Residual	Residual	Residual	Redistributive

(Source: Boychuk 1998: 59)

In spite of this constitutional fragmentation, federal-provincial relations at the level of practical policy within the welfare state sphere continued to advance in the 1960s and 1970s. However, these relationships grew rockier during the 1980s and 1990s. A major cause of this change was a shift in emphasis from developing the Canadian welfare state to constraining its growing costs. An example of the advances made in the 1960s and 1970s was the introduction of the Canada Assistance Plan (CAP) in 1966. The CAP replaced previous federal-provincial cost sharing programs where the provinces were reimbursed fifty-cents on the dollar for the cost of providing social assistance to beneficiaries from a small number of categories of interest to the federal government including low-income seniors, the disabled and employable individuals who did not qualify for federal unemployment insurance. Unlike these previous programs the CAP offered the provinces fifty-cent on the dollar compensation for the costs of social assistance to all beneficiaries as well as associated services, such as the costs of providing beneficiaries with health care. The conditions attached to these funds were:

- Everyone in need must be assisted (although each province was free to define what “in need” meant for itself)
- There could be no minimum residency requirements
- There had to be an appeal process
- The provinces had to maintain accounts regarding the costs of their programs
- All provincial laws and regulations regarding their programs had to be made available

As a result, the idea that some poor individuals and families were “deserving” of public assistance and others were not could no longer be made based on discretionary grounds and had to be based in rules defining what it meant to be “in need.” For example, a single employable person could be judged “in need” according to a different criteria than a single parent, but the criteria needed to be spelled out in provincial laws and/or regulations, and those laws and rules could and did vary by province. Provincial discretion was further limited by the requirement that each province had to create an appeal process. Although the provinces had created their social assistance policies to further different aims, the CAP initiated a certain amount of convergence, improved benefits and increasing fairness and professionalization of social assistance (Boychuk 1998).

Shared-cost programs, such as the CAP, as well as Canada’s constitutional struggles during the 1960-1995 period, created a need for institutions to facilitate both dialogue among the provinces and federal-provincial negotiations at both the political and bureaucratic levels (Meekison 2004: 145-146; Papillon and Simeon 2004: 114-115). These dialogues and negotiations became so pervasive as to be seen as a new form of joint-decision-making in federations and have been labelled as “executive federalism” (Smiley 1987). These institutions are perhaps best symbolized by the existence since the 1980s of a minister of intergovernmental affairs in the federal cabinet (and most provincial cabinets) to coordinate each government’s positions in the myriad of forums where intergovernmental relations occur. By comparison there

is no analogous secretary's portfolio in the cabinets of American presidents.⁶ These institutions represent the sort of policy legacy that Béland, Rocco, and Waddan (2016) argue facilitate the implementation of new policies within federations.

Shared cost programs are effective tools for building welfare state policies and institutions in a federation. However, they are not the best way to control costs. As concern in Ottawa shifted from building the Canadian welfare state to controlling its costs in the late 1970s and early 1980s, Ottawa began to negotiate changes with the provinces that would convert some of the most expensive shared cost programs into conditional grants. The best example of this was the conversion of federal support for provincial high-education and health care into a single grant dubbed "Established Program Financing" (or EPF). This program replaced the fifty percent reimbursement with a fixed grant for each province that would grow according to a formula based on growth in Canada's national product. Most importantly, the grant was paid in part by Ottawa transferring a portion of its "tax room", the share of personal and corporate income subject to federal taxation, to the provinces. Quebec had long argued it was preferable for Ottawa to transfer a share of its taxation powers to the provinces, rather than provide them with grants to fulfill their welfare state obligations under the constitution. However, in return for accepting the risk of rising costs, provinces were also freed to spend the money as they saw fit, provided that when they did spend the money on health care, certain basic principles were followed. The provinces could even spend the money in other policy areas if they chose. While the creation of EPF and the initial formula for calculating it, were the result of federal-provincial negotiations, in most cases, during the 1980 – mid 1990s, Ottawa simply changed the formulas

⁶ This post has had a variety of names at the federal level including minister for constitutional affairs and minister of intergovernmental relations. The current prime minister (Justin Trudeau) has reserved this portfolio for himself as in the past have several provincial premiers when making their own cabinets.

for how shared-cost programs were funded or converted them into conditional grants unilaterally. This was the case regardless of which party held power (Cohn 1996: 171-174).

As with most other OECD countries, Canada struggled in the period from the mid-1970s through the 1990s to adjust to the changing world economy. At first the impact on social policy was a desire to find ways to spend less. The Trudeau Liberal government 1980-1984 arbitrarily changed the escalator on grants to the provinces and individual transfers to reflect what it felt Ottawa could afford (Cohn 1996: 173). The Mulroney Conservative government (1984-1993) followed suite in this regard. It also introduced an income cut-off for the previously universal federal Family Allowance, combining it with some other grants to create a new Child Tax Benefit in 1993 and created a tax claw back for Old Age Security recipients earning above-average incomes in 1989 (Woolley et al. 1996; Myles 2013: 321). As well, it imposed a “Cap on the CAP” limiting the increase in annual payments to the three wealthiest provinces, Alberta, British Columbia and Ontario, and thereby arbitrarily ending the fifty-fifty cost sharing formula for social assistance and associated programs (Jenson 2013: 52-53).

The federal election of 1993 created a Liberal majority government and all but eliminated the federal Conservatives and the social democratic New Democratic Party from the federal parliament. The official opposition ended up being the Bloc Quebecois (dedicated to making Quebec a sovereign country) and a new right-of-centre party called Reform that won the bulk of the seats in Canada’s western provinces, but had yet to break through anywhere else. At first the new Liberal cabinet seemed less interested in cutting social policy spending and more interested in reforming it to better fit the new economic era of globalism and neoliberal ideas on labour market adjustment. A major government study concluded that Canada’s mix of federal and provincial programs fit very well with the traditional liberal welfare state goal of providing a

safety-net to temporarily support the income of families until they could again obtain paid employment. However, it also concluded that the old policies formed a welfare “trap”, and that the new reality of global competitiveness meant that increasing numbers of fully employed workers did not earn enough to raise a family. A better integration of provincial and federal labour market programs, as well as better integration of provincial social assistance and benefits for working families was needed, as were better designed federal benefits for those working families (Human Resources Development Canada 1994). However, at this point, the social policy review was set aside and eliminating the federal budget deficit became the primary aim of the Liberals. The result was the 1995 federal budget that eliminated the CAP by rolling it into the same grant as the EPF and rebranding it as the Canada Health and Social Transfer (CHST) and anticipated reducing the amount transferred to the provinces by a total of seven billion dollars in fiscal 1996-97 through 1997-98. Ominously for many social policy observers, the new grant also eliminated both the requirement that provinces help all individuals and families that are in need and also the requirement that each province have an appeal mechanism for those denied benefits (Cohn 1996: 175). Not surprisingly, given the new priority on balancing the federal budget, the only major reform from the federal social policy review that was acted on were reforms to make it harder to qualify for federal unemployment insurance benefits and a decision to transfer funds earmarked for cash benefits into paying for labour market training programs (Warriner and Peach 2007: 47). These moves would offload many onto provincial social assistance programs that were already financially pressed through the ending of the CAP and the cost cutting of the CHST (Boychuk 2015: 44).

Although the social policy review’s big ideas for a coherent reform of social policy were not acted on right away, the social policy review was symptomatic of one arm of a two prong

assault on social spending. The first came from economists who saw so called “passive” labour market and social assistance policies of cash benefits as inefficient. What were needed were active policies that re-trained and re-skilled, as well as those that enabled work (such as child care). There was also a concern that cash benefits, when paid, had to be restructured so as to encourage a transition to paid employment and not create welfare traps or disincentives to employment. Whether this analysis was accurate or not is beside the point. What matters is that this analysis was adopted by policy-makers in both Ottawa and many provincial capitals during the 1990s (Warriner and Peach 2007). The other prong of the assault was public disquiet with social assistance spending. Andersen and Curtis (2013) argue this public concern was linked to the very same economic factors that created the demand for increased social spending, the economic difficulties facing Canada and Canadians as the country adapted to the new economic context of global competition. In the early to mid-1990s, politicians began to capitalize on this context. Governments were elected in a number of provinces, most notably Ontario, Canada’s largest province, and Alberta, its most rightward leaning politically, that promised to cut social assistance benefits and also making social assistance rules more rigorous (Boychuk 2015: 43-45). Thus, the early to mid-1990s presented something of a perfect storm for social assistance policy and other social policies in Canada. Governments were eager to balance budgets and public opinion was conducive for restraining spending in this area. Federal policy responded by reducing support for provincial social assistance programs, eliminating rules that required provinces to help all those in need and do so fairly, and also by curbing direct payments to families through the tax system and unemployment insurance. Some provinces used the freedom and also cut benefits more than others. As Boychuk argues (2015), explaining what happens requires that we keep in mind all of these things, and not just lay the blame solely on the CHST.

Eliminating the restraints on provincial policy was important, but the provinces themselves had to want to use the freedom. Provinces were not forced to lower benefit rates in their programs nor to make them more difficult to access. The preferences of the various provincial governments and their social assistance policy legacies played a key role in how each province responded. In terms of federalism, many provincial politicians felt that Ottawa had surrendered its leadership role and moral authority in the area of social policy (Warriner and Peach 2007: 50; Cohn 1996).

Canada's shared-cost programs and constitutional difficulties left a policy legacy of well-developed institutions to conduct federal provincial relations and negotiations. However, the constitution and division of powers provided for a highly fragmented variation of federalism. This resulted in a variety of social assistance regimes across the ten provinces that provided unique policy legacies. The CAP led to some convergence but as late as 1990 provinces were still exhibiting four of the five policy regimes Boychuk (1998) had identified. Fragmentation was even further promoted by the federal cost cutting of the 1990s culminating in the CHST. Meanwhile public opinion demonstrated a significant disquiet over social spending, a disquiet some provincial leaders capitalized on politically, promising to reduce social spending. However, it should be noted that this public opinion was driven by the economic context, the difficult times Canada was having in adjusting to the new economic realities of global integration and competitiveness. As we will see in the next section, the policy legacy of robust institutions for intergovernmental dialogue and negotiations played a crucial role in developing and implementing the CCTB. Fragmentation of authority in the federation played an equally important role in both the design and implementation, including the development by Ottawa of a new strategy to re-assert its policy leadership. However, as we will see, this limited federal

authority varied depending on the element of the reform package being looked at. Much as Béland, Rocco and Waddan (2016) found the different elements of the *PPACA* each had a different politics of implementation, so too is the case with the CCTB.

The Canada Child Tax Benefit Design and Implementation

If the Canadian federation had a low point in its history, it was surely the annual meeting of the provincial and territorial leaders which took place in the summer of 1995. Three years previously, the *Charlottetown Accord* constitutional reform package had been resoundingly rejected in a referendum, five months previously the federal government had unilaterally reduced the transfer payments that it made to the provinces by billions of dollars, and the government of Quebec had scheduled a second provincial referendum on independence for the coming fall.

In spite of the tensions presented by Quebec's impending referendum, the premiers and territorial leaders were able to agree at that 1995 meeting, that if there was to be any hope of positive developments in dealing with the federal government, they needed to find common positions among themselves. One of their first priorities was to determine a collective position as to what positive change in social policy would look like and how the relationship between Ottawa and the provinces and territories ought to be structured so as to bring about that positive change (Meekison 2002: 159-160). To this end they created a new Ministerial Council on Social Policy Reform to work out these ideas. By the end of 1995 the Council had produced a working paper that included a statement of principles and twenty-two recommendations and this was publicly released in March 1996 after all the premiers save Quebec's endorsed it.⁷ The report adopted much of the thinking of the federal government's abandoned social policy review.

⁷ Ministerial Council on Social Policy Reform (1996) *Ministerial Council on Social Policy Reform Report to the Premiers* accessed online August 1, 2016 at: <http://www.exec.gov.nl.ca/exec/PREMIER/SOCIAL/ENGLISH.htm>

Prominently endorsed by the provincial and territorial ministers was the need to coordinate federal and provincial policies so as to help lower-income workers with children, remove barriers that discouraged social assistance beneficiaries from moving into the paid-labour force and help workers better adapt to changing labour market needs (Ministerial Council on Social Policy Reform and Renewal 1996: 2 – 5). Quebec (still led by a sovereigntist government, and just having narrowly lost the referendum on leaving Canada) held strongly to the view that the only acceptable solution was for Ottawa to transfer taxation powers and funding unconditionally to the provinces. However, even while rejecting both the idea of collaborative policy development between Ottawa and the provinces and the redistribution of authority based on practical grounds, the Quebec's public servants and politicians did remain engaged with the process and contributed positively on policy questions (Warriner and Peach 2007: 50-58; Jenson 2013: 56-57). According to Meekison, the result was the establishment of “a systematic, comprehensive and continuing interprovincial approach to resolution of social policy... At each premiers’ conference since 1996, one can trace the continuing evolution of the interprovincial position on social policy renewal (2002: 161).” Warriner and Peach (2007: 59) argue that the provincial-led approach to developing social policy was an important step towards creating a process for Canada-wide policy action that was at least less offensive to nationalist Quebecers and that it forced a reluctant Prime Minister to meet and discuss social policy questions with the provincial leaders. The report sparked a year and half of federal provincial dialogue and negotiations that ultimately led to the 1997 Canada Child Tax Benefit reforms.

The Canada Child Tax Benefit had been originally created in 1993 as a tax credit for low income families when the previous Conservative government had eliminated the universal family allowance that had been paid to all Canadian children with families regardless of income. In

agreement with the provinces, Ottawa also folded in additional money that had been used in a separate low income support program and added another six hundred million (making a total increase in the CCTB of CDN\$ 850 million). The result was a two-part program, the basic benefit (which had a relatively long tail out and which 80 percent of Canadian families had some eligibility for in the first year) and a new Supplemental Benefit for very low income families. Crucially, the benefit was integrated with provincial social assistance in that provinces, if they chose, could treat it as income and deduct it from social assistance payments families would otherwise receive. However, this was done with the understanding (agreement was too strong a word) that provinces would re-invest these savings in programs for children and low income families. Together, these three elements, the reformed CCTB, the Child Tax Supplemental Benefit and the promise to re-invest provincial social assistance savings in programs for children and low income families form Canada's National Child Benefit Initiative or NCBI (Warriner and Peach 2007: 75). As a result, low income families on social assistance would generally be no better and no worse off due to the changes. However, the working poor would see a big improvement.

In keeping both with the Ministerial Council on Social Policy Reform's report, and the constitutional realities of Canadian federalism, the NCBI criteria as to what would count as a reinvestment of social assistance savings was very broad and could include almost anything provinces felt would be of benefit to children and low income families. These choices however, were not random. In fact, a reasonable argument can be made that they were to a considerable degree shaped by the institutional factors found to be so important in explaining the implementation of the *PPACA* in the United States by Béland, Rocco and Waddan (2016).

The first of these institutional features is the degree of fragmentation of authority in the federation. As we have seen, authority over most policy areas in Canada's federation is highly fragmented and social policy is no exception. Jenson (2013: 57-58) expresses the generally accepted wisdom that to the extent provinces re-invested their social assistance savings in other programs to help children and low income families, it was because they wanted to do so, not because of anything the federal government did. This paper however, will suggest that the federal government found a way to give itself a bit of extra leverage that it normally did not possess in dealing with the provinces on social policy issues. The answer to how this was done provides an important illustration as to how policy legacies set context but need not be deterministic. We have to remember that social policy is not the only policy with a legacy. As will be recalled, the federal government had made fighting the national budget deficit its main priority with its 1995 budget. Due to a variety of factors, the federal government's finances were restored to order much quicker than most people thought possible. As a result, the 1996 budget announced that the cuts to provincial transfers announced with the introduction of the CHST would not be fully implemented and the 1997 budget (for fiscal 1997-98) announced that the government was far enough ahead on its targets that there was room for small re-investments in a number of policy areas including social policy, in other words, the CCTB and its supplemental benefit (Department of Finance 1996: 11; Department of Finance 1997). In announcing the re-investment, Finance Minister Paul Martin made it clear that the money was available because of the speed with which the deficit was being tackled and that as Ottawa's finances improved the CCTB and its supplemental benefit would grow as well.

Mr. Speaker, most of the great national programs in this country were built in stages. This was true of Medicare. It was true of seniors' pensions. What is important is to take the crucial first step. ... Mr. Speaker, the creation of a new National Child Benefit System is a major change which, by its very nature, requires moving forward together with the

provinces. Discussions as to detailed design are now underway. Part of the design involves the provinces moving to use the funds freed by the federal investment to provide children with the support and services so needed in their formative years... For our part, we are planning on full implementation no later than July 1998. However, if based on our discussions with the provinces, it proves possible to go sooner, we will do so. There can be no more worthy effort than a new partnership on behalf of Canada's children. Mr. Speaker, today, we are devoting significant new financial resources to meeting this challenge. Yet this can be but the beginning. We will provide additional resources – as soon as we can afford it. The reason is very clear. Opportunity denied in childhood too often means chances lost as an adult. The future of Canada's children is the future of the country itself (Finance Department 1997: 22-23).

However, there was nothing that would have prevented the federal government from redirecting the money proposed for increasing the CCTB and its supplemental benefit in future years if the provinces failed to live up to their end of the bargain by re-investing their savings from reduced social assistance costs. Therefore, by tying the growth in the CCTB and CCTB supplement to the fight against the deficit, Ottawa essentially created a lever to hold the provinces accountable. In fact, the provinces did keep their side of the bargain (Jenson 2013: 57-58). As we will see below, they re-invested their social assistance savings in a wide variety of programs aimed at making life better and improving the living standards for children and low income families. Meanwhile, as the economy improved so did the public opinion climate for public spending on social policy (Andersen and Curtis 2013: 156). As provinces used savings to redesign social programs to provide similar tax-based (non-social assistance) support to families, child benefits became separated from social assistance, which both reduced the barriers preventing social assistance recipients from re-entering the labour market (Torjman and Battle 2015: 396) and also handed the provinces a public relations win as the incidence of families on social assistance began to drop (Federal, Provincial and Territorial Ministers Responsible for

Social Services 2005: 31).⁸ As can be seen from the table below, between July 1998 and July 2004 the value of the CCTB and its supplemental benefit had nearly doubled for a low income family with two children under seven.

Table 3: Growth in the Maximum Canada Child Tax Benefit and Supplement. July 1998 – June 2004 for families with 2 children under Seven Years of Age.

Tax Year	Basic Benefit	Supplement 1 Child	Supplement 2nd Child	Young Child Supplement (under 7)	Total	Max. Benefit Families with Net Taxable Income Under
1998	\$1,020	\$605	\$405	\$416	\$2,446	\$20,921
2004	\$1,208	\$1,511	\$1,295	\$478	\$4,492	\$22,615

(Source: Mendelson 2005: 61; Warriner and Peach 2007: 79 and Federal, Provincial, Territorial Ministers Responsible for Social Policy 2005: 7; Finance Department 2000: 133 and 2001: 177)

Provinces adopted three approaches to the implementation of the CCTB and its supplement so as to integrate it with their own social assistance and social policy programs. Some provinces with social assistance programs that paid benefits for children as well as adults deducted the value of the new benefits directly from social assistance owing to beneficiaries. In other provinces where a separation had been made between social assistance and provincial child benefits, the value of the new federal benefits was deducted from the amount of provincial child benefits owing. Finally two provinces New Brunswick and Newfoundland & Labrador allowed the full value of the CCTB and its supplemental benefits to flow through un-deducted to families. These provinces estimated what their savings would have been if they had made deductions and used that figure to calculate their re-investment obligations. Manitoba followed suit in this regard in 2001 and Ontario first partially allowed flow through (50%) and in 2008 abolished claw backs altogether (Federal, Provincial, Territorial Ministers Responsible for Social Services, 2005: 9; Boychuk 2015: 48). This would tend to confirm that in spite of Ottawa's best efforts there were

⁸ While the evidence was clear that the incidence of families receiving social assistance was in decline, the average length of stay on benefits had not improved, leading analysts to conclude that the Canada Child Tax Benefit and associated provincial re-investments might have been more effective at preventing families from needing social assistance than helping those on social assistance to get off of it (Federal, Provincial and Territorial Ministers Responsible for Social Services 2005: 31).

limits to how much it could influence implementation in the provinces and also that there were differences in regard to the element of the policy being implemented. While the provinces faithfully reinvested for the most part, they were less willing to follow Ottawa's lead on program design and philosophy, whether to flow through benefits or not. By 2004, four of the ten provinces had rejected the idea that creating a difference in child benefit levels between families on social assistance and working families would meaningfully move social assistance beneficiaries into the labour market. This difference in trajectories for the implementation of these two different elements of the CCTB strategy, tends to confirm the ability of Béland, Rocco and Waddan's (2016) theory to help explain this case.

When we turn to explaining why these four provinces chose to either immediately flow through the new federal benefits to social assistance and provincial child benefit recipients rather than claw them back, an interesting possibility emerges. When one looks especially at Ontario's decision in 2004 and 2008 to fully flow through the benefits, they can almost be described as 'stealth' social assistance rate increases for families with children. As will be recalled, Béland, Rocco and Waddan (2016) argued that when policy legacies created a situation where action could be taken by state public servants alone, without the involvement of politicians, there was a better chance implementation would occur as it was less visible to the public and therefore less susceptible to negative sentiment. Increasing flow through rates is far less visible to the public and far harder for critics to explain to them than hiking provincial social assistance benefits.

How the provinces chose to spend their initial re-investment money also seems to confirm Béland, Rocco and Waddan's argument that partisanship alone cannot explain implementation, policy legacies also matter. Ontario, Canada's largest province both by population and economic power, inherited a social assistance regime described by Boychuk

(1998) as “conservative.” In 1995 the province elected a right-wing Conservative Party government that promised to slash social assistance benefits and use the new autonomy granted by Ottawa to force recipients back into the labour market. The government followed through on its promises by introducing major reforms in 1997. Although supposedly aimed at moving social assistance beneficiaries back into the labour-market, the emphasis remained on providing cash benefits, rather than active policies, suggesting the real aim of the reforms was simply to reduce costs by restricting eligibility and other savings (Graefe 2015: 116). Ontario’s initial re-investment strategy was to create a provincial child care supplement (payable through the tax system) to low income families with employment income over \$5,000 in the previous year (Canada 1998). In other words, it did little to facilitate the transition of social assistance recipients to work but did provide some help to those already employed. The net result of both the major reform and the reinvestment in Ontario was to leave the conservative nature of Ontario’s social assistance regime largely unchanged.

Meanwhile neighbouring Quebec, the second largest province by population and economic power, entered the 1990s with a social assistance regime Boychuk (1998) described as a mix of Market Enforcement and Performance. From the 1970s through to the early 1990s a series of reforms divided social assistance beneficiaries into those who had serious impairments keeping them out of the labour force and employable people for whom work was increasingly enforced. Cost control and its invasiveness were symbolized by welfare inspectors who were sent to the homes of single parents to search for evidence of undeclared partners. The social democratic leaning Parti Quebecois did little to alter this emphasis on promoting work for employable people with its reforms to social policy after the 1995 referendum (Noël 2015: 131). However, it did humanize the system and embark on an important program of consulting with

civil society actors and clients. Based on these dialogues programs were redesigned so as to both save money and also better enable work. Nothing perhaps better illustrates this than the provinces 1997 children's strategy: universal professional day care at affordable rates, initially \$5 per day, a new income related universal family benefit that would along with the CCTB would replace social assistance for many families and a proposal to negotiate a new parental leave program specific to Quebec with Ottawa (Noël 2013: 266-267). As Quebec exercised its option to not participate in the CCTB's associated National Child Benefit Initiative, it is difficult to say these expenditures were "reinvestments." However, Quebec's ability to pay for these reforms was certainly facilitated by the savings produced by the CCTB and its supplement and the impact of the new Quebec family benefit was certainly enhanced by the parallel federal credit. Consequently, the authors of the 2005 evaluation of the CCTB its supplemental benefit and the National Child Benefit Initiative could add an asterisk to their report and note that:

The government of Quebec has stated that it agrees with the basic principles of the NCB. Quebec chose not to participate in the NCB because it wished to assume control over income support for children in Quebec. However, it has adopted a similar approach to the NCB (Federal, Provincial, Territorial Ministers Responsible for Social Services 2005: 1).

In sum Quebec's policy stance on social assistance shifted only slightly during the 1990s from a mix of Market Enforcement and Performance to a clearer example of Boychuk's Market Performance ideal type and its CCTB quasi reinvestment choices reflected this policy legacy. Having looked at the two largest Canadian provinces, Ontario and Quebec, one with a hard right government that could not change social assistance policies to better encourage work, it could only make them more stigmatizing, and a social democratic government that although it could humanize policy could not escape the past legacy of a Market enforcing and performance policy regime, we see yet more evidence for how policy legacies shaped what each province was able to

do in terms of implementing the re-investment component of the CCTB referred to as the National Child Benefit Initiative.

Throughout the early years of the CCTB (1997 – 2007) the Federal, Provincial Territorial Ministers responsible for Social Services and their associated public servants continued to meet regularly as did the separate council of provincial and territorial ministers. Progress reports on the CCTB and the National Child Benefit Initiative were issued covering up to the year 2008 (Federal Provincial Territorial Ministers Responsible for Social Services 2013). That this body continued as long as it did was somewhat striking in that the federal Conservative government of Stephen Harper (which took power in early 2006 and remained in power until the fall of 2015) was not enthusiastic about dealing with the provinces as a collective group or programs that involved collaboration with them. One of his first decisions was to abandon a recently created national early learning strategy that had been worked out by a similar federal, provincial, territorial body of ministers with input from the social ministers and replace it with a taxable benefit paid to each family with children under 6 (Philips 2013: 128-129). One can only assume that the existence of a robust institution for dealing with social policy issues that crossed federal boundaries was useful to the Harper government so they continued to participate as long as they did, even while other institutions for federal-provincial relations were more or less abandoned.

Conclusions:

This paper set out to assess whether or not the theory proposed by Béland, Rocco and Waddan to explain the implementation of public policy within the US federation (2016) could travel?

Basing their work on a study of how the three major elements of the PPACA were implemented in the fifty states, they came to conclude that although partisan politics and public sentiment are

important they offer an incomplete explanation. Each major element of the *PPACA* had its own unique politics of implementation and Institutional factors must also be taken account of to understand them. Specifically they saw the following three factors as influential:

- The degree to which authority over the implementation of the policy is fragmented within the federation
- Policy legacies that facilitated dialogue so as to resolve disputes and negotiate issues related to implementation between the states and Washington
- Policy legacies that delegated authority to public servants so that implementation could occur in sub-governmental systems rather than require action by politicians

This paper looked at the case of the development and implementation of Canada's Child Tax Benefit (CCTB). It tends to confirm their findings and shows that their theory does indeed travel reasonably well. The two major elements of the CCTB and National Child Benefit Initiative, that required provincial implementation, whether to claw back these new federal benefits from social assistance and social benefits recipients to encourage work and how to reinvest the savings had very different stories and politics. While Ottawa could use its limited authority available through the fragmented nature of Canadian federalism to encourage all the provinces to reinvest in social policy, only six of the ten followed its view that clawing back the new benefits from social assistance recipients would help reduce disincentives to work. Policy legacies proved important both in facilitating federal-provincial dialogue and negotiations but also in channeling provincial decisions as to what to spend their re-investment monies on. Although policy legacies that created delegations of authority to public servants within provinces did not appear important, the logic as to why this should matter did. Specifically, Béland, Rocco and Waddan held that this would facilitate implementation in a climate of poor public sentiment because it

made the changes brought about hard to see for the public. When looking at Manitoba which chose to suspend its claw back in 2001 and Ontario which chose to partially eliminate its claw back in 2004 and fully in 2008 it was suggested that these decisions were effectively benefit increases for families receiving social assistance and social benefits that did not have to be portrayed as such. They could be passed off as technical changes in social assistance and family benefits programs and would therefore be less noticeable than an outright increase. In summation, this paper demonstrates that further work is warranted to see if the Béland, Rocco and Waddan hypothesis can be applied elsewhere in the study of policy implementation within federations. Their theory does appear to travel well.

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