

***Globalization, the Federative Deficit and the Case of Québec.* Speech by Joseph Facal, Minister for Canadian Intergovernmental Affairs, delivered on the Occasion of the XVIIIth World Congress of the International Political Science Association, Musée du Québec, August 3, 2000.**

[Translation]

I am delighted to welcome you to Québec and to our national capital, Québec City. Founded in 1608, Québec City will soon be celebrating 400 years of existence, making it one of the oldest cities on the North American continent. It was here, in 1791, nearly three-quarters of a century before the creation of Canada, that the first elected parliament of this North American colony was established. Québec City has been, and continues to be, the cradle of a people that not only played a role in the founding of Canada, but also predated it and, to some extent, paved the way for the introduction of representative political institutions.

In recent times, a new word has entered our vocabulary, describing a concept that is increasingly likely to shape our daily lives as individuals, as a people and as a State. The word in question is globalization, and defining it is no easy task. The *Webster* describes it in very general terms as “to organize or establish worldwide.” What is primarily involved here is a basically economic phenomenon—the market economy logic, whose influence at the continental and global levels is growing steadily in importance.

Our traditional points of reference, namely East/West blocks and North/South relations, are either outdated or have undergone a radical transformation. We are living in an era of instantaneous change, in a world with increasingly open economic

boundaries, where our interactions, formerly concentrated in a small circle, now cut across state and cultural boundaries, in a context dominated by the explosion of new technologies for communications and exchange.

Thus, the concept of globalization involves a more open world economic market, the emergence of a world knowledge and information economy, and a planet-wide distribution of political and cultural values arising from particular contexts.

It is therefore not difficult to understand that globalization can create sources of tension and uncertainty. Indeed, it alters the spatial organization of a vast range of human activities that are now carried out on a transcontinental or inter-regional basis, with all that this implies for the exercise of State prerogatives.

Globalization is by no means a new phenomenon. It has always been present in social evolution. However, it was a question of degree. In ancient times, it was quite possible for societies to live in autarky. But this did not last. Contacts were forged. A thousand years later, autarky was still possible but less probable. And today, the handful of States that, for mainly ideological reasons, still attempt to practise it have run into economic and social problems that threaten their very existence.

In short, the main characteristic of globalization in its current form is its scope, and perhaps also the feeling underlying it, namely that we have gone past the point of no return. Today, globalization is no longer a linear process, but a multidimensional process that can be measured in all the main spheres of human activity, in political, economic, social, cultural, administrative, legal, military, technological and environmental life. It is characterized by the extent and close-knit nature of its networks and by the intensity of its flows. Its

impact on societies, groups and individuals differs in intensity, although some people go as far as to describe it as a veritable revolution.

At the political level, this leads inevitably to changes in the way power is exercised. If, at some point in the future, a theory of globalization were to be developed, it would have to address such fundamental questions as the tiering of decision-making authorities and the unequal distribution of access to power, with all that this implies for the welfare of peoples, groups and individuals and for the influence they are likely to gain or lose on the checkerboard of globalization.

In the eyes of some observers, the advent of globalization has sounded the death-knell of the nation-state concept. If the structure of the organizations created to implement globalization is any indication. I have my doubts as to the validity of this statement. At the very least, it seems to me to be premature. The concept of nation-state that has shaped the political, economic and social organization of our societies in the post-Westphalian age seems to me to be as firmly entrenched as ever. This does not mean, though, that globalization will not bring some far-reaching changes in the future—on the contrary. Such changes are already knocking at our door, especially in our perception of the hierarchical order of our political players.

Indeed, because the phenomenon of globalization causes perspectives to change, it follows that the development of the State, henceforth perceived as peripheral, will be approached from a much more regional perspective. This change in the perception and in the very order of things will inevitably raise the question of how much flexibility the new local communities will have in future in the face of restrictions arising from political and economic decisions made at the centre. As a result,

the discourse on local autonomy will have to be brought up to date and perhaps even completely overhauled.

Other observers have noted that, at the political level, globalization causes the public space to shrink, in that the citizens and the State lose some of their power over the political and social agenda, and over their ability to establish priorities within the political agenda. The experience of the European Union, which is both an advanced and a regional form of globalization, has proved this, and a new term has been coined to describe this side effect of globalization: the “democratic deficit.”

Basically, it has been observed, in the case of Europe, that portions of sovereignty have been withdrawn from national parliaments and transferred to the European Union’s political authorities. If such transfers have, in general, been quite smooth, it is probably because the main decision-making authority remains to this day the Council of the European Union, composed of all the member States. However, as the Council is intended first and foremost to be an intergovernmental forum, the States are naturally represented by their respective executives, within a relatively closed framework. As a result, the national parliaments—in other words, the legislative branch—has been excluded from the conception of public policy in many areas.

The same trend can be seen in other international forums, although with less obvious repercussions, since in these cases the transfers of sovereignty have been indirect. However, two main points remain constant. First, it is the State executives that take part in these forums, and second, the general public is usually kept aside from the deliberations and the decision-making process.

In addition, the decisions that are eventually made tend to be irreversible, even if, in many cases, the governments

concerned need the approval of their own national parliaments before implementing them. There is usually no real possibility of backtracking, because a State whose parliament consistently refused to approve the conventions drawn up at the international level would effectively be condemning itself, in the medium term, to a form of exclusion.

The phenomenon of the democratic deficit raises a serious problem, because most liberal democratic constitutions are based on a delicate balance in which State prerogatives are shared between the legislative, executive and judicial branches. Indeed, the democratic nature of a constitution lies precisely in that balance, which precludes domination by one branch or one individual and allows for the broadest possible participation in the State's political life.

Generally speaking, when sovereignty is divided up in this way, the executive branch has jurisdiction over foreign relations, including the power to enter into treaties. However, it is important to remember that this typical allocation of power was first devised at a time when international relations were much less important than they are today, and when war was a central element, therefore justifying the secrecy surrounding them.

Since the end of the Second World War, international relations have developed to such an extent and have become so important that, in some cases, model national laws are now actually being drawn up behind the doors of international forums, on subjects as varied as private law and taxation. Given that this type of work was originally meant to come under the jurisdiction of the State's legislative branch, it is easy to see how globalization can change the constitutional balance of liberal democracies.

In countries where sovereignty, in addition to being shared between the legislative,

executive and judicial branches, is also shared between a federal government and federated entities (as is the case in Canada), the deficit is even greater. Indeed, while the subjects addressed in international forums used to be mainly those usually falling under federal jurisdiction, such as defence, navigation and international trade, this is no longer the case today.

With economic liberalization and its corollary, freedom of movement, it is increasingly clear that even local policies, which usually come under provincial jurisdiction (social policies, for example), can no longer be drawn up in a vacuum and must also be discussed at the international level.

However, state practice shows that, where as federations are concerned, it is usually the executive branch of the federal government that takes part in the international forums at which a growing percentage of public policies, even those falling in principle under the exclusive jurisdiction of the federated entities, are now conceived.

Globalization has therefore had the effect, in federations like Canada, of disturbing the institutional and constitutional balance even further. This has produced a second type of imbalance, which I will call the "federative deficit."

The federative deficit is just as worrying as the democratic deficit—and with good reason. In many liberal democracies, especially those that have a parliamentary system based on the British model, as is the case in Canada, the separation of power between the executive and legislative branches of the State has become much less marked over the years, for reasons that have nothing to do with globalization. However, the distribution of power between the various levels of government in a federation is still just as crucial today as it has always been, because without it, there can be no federal system. In Canada, we know all about this!

Globalization therefore presents a sizeable challenge to federal systems. By maintaining the current monopoly of federal executives over international relations, we are inevitably witnessing an erosion of the federal principle as the range of public policies discussed on the international stage grows.

The federal principle is eroding because, through globalization, the federated entities are losing much of their latitude in conceiving public policies, and are not being compensated for this by being allowed to participate directly in the appropriate international forums, as are unitary States and federal governments.

To add to the problem, this situation benefits the federal government in a second way: by granting itself the right to debate subjects usually under the jurisdiction of provinces, the central government is effecting a net transfer of provincial jurisdiction in its favour. I hardly need add that the growth in international activity from which this transfer results, and which is based ultimately on the development of communication technologies, will certainly be gathering speed in the future.

If the federal principle is to be preserved in the context of globalization, the federated entities would have to have control of their own international relations for all issues related to their exclusive internal jurisdiction, and conversely the federal governments would have to agree to limit their interventions to exchanges concerned solely with matters under their own jurisdiction.

In Québec, this idea is by no means new. Paul Gérin-Lajoie, a man of great vision who was Québec's Minister of Education at the time of the Quiet Revolution, was already talking about it in 1965, over thirty years ago. I quote:

[...] the multiplication of exchange of all kinds between countries has

necessitated the direct or indirect intervention of the modern state so that these exchanges may be made basic elements of progress, of understanding and of peace between peoples. In many fields which have now assumed international importance, Quebec wishes to play a direct role in keeping with its true countenance. [...]

There was a time when Ottawa's exclusive exercise of international powers was scarcely prejudicial to the interests of the federated states, inasmuch as the field of international relations was fairly well defined.

But, in our day, this is no longer so. Interstate relations now touch every aspect of social life. This is why, in a federation such as Canada, it is now necessary for those member groups, who wish to do so, to participate actively and directly in the preparation of international agreements with which they are immediately concerned. [...] It is not admissible [...] for the federal state to exert a kind of supervision and adventitious control over Quebec's international relations. (Address delivered by Mr. Paul Gérin-Lajoie, Minister of Education to the Members of the Montreal Consular Corps, Monday, April 12, 1965, at the Windsor Hotel)

Obviously, the main problem standing in the way of such a solution, for Québec and for members of other federations, would be the resistance of the central governments as they jealously protect their prerogatives. In the Canada/Québec situation, there is also the constitutional standpattism to which we have been irrevocably condemned ever since the adoption of the 1982 Constitution without the agreement of Québec, the cradle of one of the two peoples responsible for the foundation of the Canadian federation in 1867.

It is therefore clear that if we are unable to leave room for the federated entities on

the international stage, and continue to reserve it exclusively for fully sovereign States, the federated entities that have the means to do so will naturally seek a change in their status, driven by the need to ensure that their communities are able to develop to their full potential.

This temptation will be all the greater since globalization has the effect of reducing one of the gains of the federal system, namely the maintenance and protection of a common economic space. Given that this gain could henceforth depend increasingly on the international order, many federated entities may find that they are no longer satisfied with their current political arrangements.

In the eyes of the Québec government, there is no doubt that, in such circumstances, globalization has rendered Québec sovereignty even more necessary and more urgent than ever before. It brings a new impetus and a wave of modernity to our national project. Those who used to claim that we were engaged in a rear-guard battle must now think again. As Bernard Landry, Québec's Vice-Premier and Minister of State for the Economy and Finance, said recently, in the new world context, sovereignty is no longer simply a question of survival, prosperity and international influence for nations; the very quality of their democratic life has been called into question by the phenomenon of globalization.

It is therefore imperative and urgent for Québec to move closer to the emerging supranational powers that will, in the future, play an increasingly important role in maintaining and developing the collective well-being of Quebecers. Given that participation in these international forums is reserved solely for recognized States, our democratic duty requires us to act if we are to preserve what we are and procure a promising future for our community.

The Québec government's goal continues to be democratic accession to sovereign status for Québec. In 1998, in an opinion requested by the federal government on Québec's secession, the Supreme Court of Canada recognized the democratic validity of the Québec sovereignist project. More recently, the Québec government has had to denounce the Canadian federal parliament's adoption of an Act designed to place further obstacles in the way of the desire of Quebecers to move towards sovereignty, thus ultimately giving the English-speaking majority in the rest of Canada a veto on Québec's future.

Through Bill C-20, the Federal Parliament is attempting to claim for itself the right to dictate the wording of the referendum question and the project to be debated when, in fact, these elements are part of the prerogatives of the National Assembly and the people of Québec. With Bill C-20, the Federal Parliament is also attacking fundamental democratic principles by setting aside the 50% + 1 rule in favour of a threshold that it will set arbitrarily once the referendum results are known. It is also attempting to impose unilaterally a list of subjects to be dealt with in post-referendum negotiations. However, nowhere in the advisory opinion rendered by the Supreme Court of Canada is the Federal Parliament authorized or invited to adopt such legislative measures.

It is thus easy to understand that this Act has been responsible for a further deterioration in relations between Québec and Canada within the Canadian federation, by calling into question the freedom of the Québec people in decisions concerning its political future, as well as the prerogatives of the State of Québec, the only majoritarily French-speaking State in North America. [...]

Source: Text of the speech.