

Agua, Recurso Único

Aguas Compartidas, Gobernanza y Gobernabilidad

**Managing Water in a Federal State:
The Canadian Experience**

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Managing Water in a Federal State: The Canadian Experience

- Constitutional context for Canadian water management
- Provincial hegemony and its challenge to sound water policy: two case studies
- Emerging water management challenges, and options for reconciling national and provincial objectives

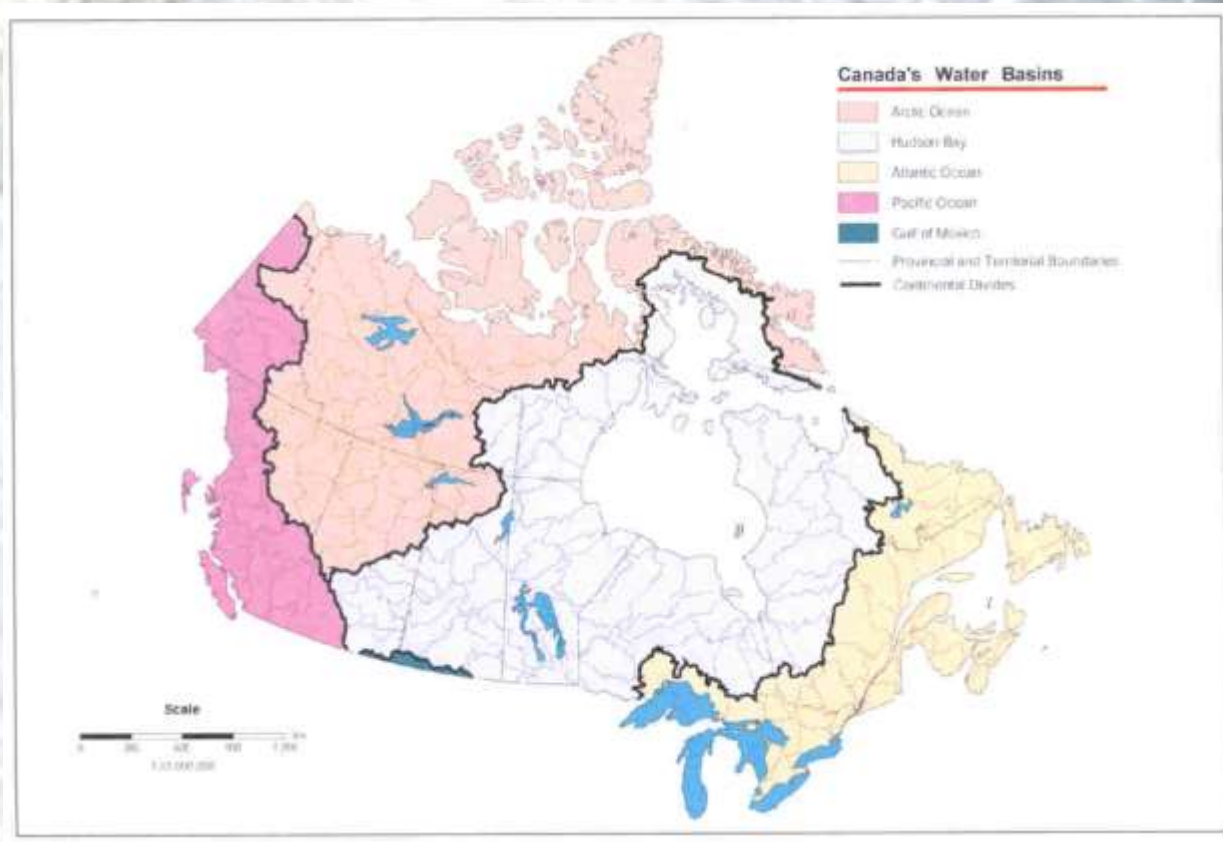
Managing Water in a Federal State: The Canadian Experience
Constitutional parameters: Federal

- Limited federal proprietary interests in the provinces (e.g. national parks, defence lands)
- Federal authority for water management flows from both specific and general heads of power in Constitution
- Federal preference to rely on specific powers
- These powers do not provide an ideal base for plenary management of water resources

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Constitutional parameters: provincial

- Provincial authority derives primarily from ownership of public lands and resources
- Proprietary rights buttressed by legislative powers over provincial lands and local matters generally
- Provincial role has been consolidated by political pressures and jurisprudence
- Practical result: provinces exercise dominant role in managing natural resources, including water

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Provincial hegemony: Mackenzie basin management

- Mackenzie basin: physical characteristics
- Mackenzie basin intergovernmental agreement: a failure of federal political will
- Likelihood of continuing tensions as the result of deferring tough decisions

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Provincial hegemony: water exports

- Water exports as national policy issue in Canada
- Constitutional bases for federal authority over international water relations: a mixed bag
- Reluctance by federal government to go beyond narrow specific constitutional authority in addressing water exports
- Result: asymmetric treatment of different basins, with no sound policy rationale

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Options and challenges: intergovernmental dispute resolution***

- Challenge: increased stress on shared basins from increased demands and reduced supplies
- Need for incentives for upstream provinces to negotiate in timely and substantive way
- Potential role for federal government to provide fall-back dispute resolution mechanism
- Failure to reach agreement in timely way triggers federal mechanism

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Options and challenges: water exports

- Challenge: potential threat of water exports
- Federal legislation addresses only potential removals from boundary waters
- CWIC's proposed model act would address all other extra-basin removals;
- Environmental focus avoids WTO/NAFTA problems
- Minimizes intrusion on provincial interests by deferring to any equivalent regimes in provinces

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Conclusions

- Provincial dominance in water management a reality that must be accepted in designing policy options
- Nevertheless a need for greater federal presence in some selected areas
- This need likely to grow with pressures on water resources from climate change
- Options exist that can reconcile greater federal role with deference to province as primary regulator