

of directives which they then impose upon themselves (often backed up by the judicial process), surely the Canadian provinces can do the same. Moreover, nothing in the above analysis suggests that Ottawa can or should be absent from the process. However, the fact of the matter is that Ottawa is absent because, apart from selected areas, it has never really bought into the co-determination framework, in spite of the fact that the process itself was triggered by Paul Martin's invitation in his 1995 budget. As noted above, the premiers themselves are also partly to blame for this. Unless they demonstrate some tangible pan-Canadianism (such as engaging in mutual recognition of credentials or a reasonable facsimile), their efforts will not be recognized by ordinary Canadians, let alone by Ottawa.

Assuming, as I do, that the premiers will rise to this occasion, the thrust of my assessment is that intergovernmentalism/co-determination is here to stay. In our increasingly decentralized federal system, we need new instruments to address both new and traditional challenges. The APC process represents such an instrument. For the first time in memory, the provinces are articulating a vision of federal governance, establishing a process that is open to Ottawa and, through their procedures and publications, are opening up the operations of fiscal federalism to an unprecedented degree.

Ottawa has, of course, enough power and clout to ignore this development. But prior to doing so, it ought to remind itself that the APC process is really a godsend. Just as Ottawa was abandoning its social role and focusing "come hell or high water" on putting its fiscal house in order, the provinces stepped into this federal vacuum on the social and economic union front. What is remarkable is that the three "have" provinces (Alberta, BC and Ontario) are fully committed to this process at precisely the same time as they are working actively to ensure that their economies are becoming more integrated internationally. And this is despite the fact that there are powerful interests, special and general, in some of these provinces that would prefer social policy to follow the flow of trade.

Unilateral federalism on the socio-economic front is dead. If Ottawa fails to embrace the provinces' initiatives, it may have to deal with unilateral provincialism.

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by Keith G. Banting

SOCIAL CITIZENSHIP AND THE SOCIAL UNION IN CANADA

Les négociations actuelles entourant l'union sociale risquent d'être régies par ces deux immuables piliers du fédéralisme canadien que sont le pouvoir et l'argent. Cette tendance devrait être contre balancée par des préoccupations concernant la substance des politiques sociales et le sens d'une citoyenneté sociale commune. En particulier, il est primordial que ces négociations ne compromettent pas l'avenir de politiques sociales pan-canadiennes. Cet article plaide pour le maintien du droit du gouvernement fédéral de faire des transferts directs aux individus sans qu'il ait auparavant l'obligation d'obtenir l'assentiment formel des provinces. Et, bien qu'une plus grande concertation soit sans doute nécessaire pour les programmes conjoints, il importe de ne pas adopter des règles de co-gestion si complexes qu'elles incitent les politiciens fédéraux à éviter la voie fédérale-provinciale.

The greatest risk facing the social union is that the current negotiations will be driven exclusively by those hardy perennials of Canadian politics, money and power. The danger is that the debate will proceed completely within the intellectual framework of federalism, focusing only on issues such as fiscal imbalance, federal-provincial transfers, visibility, accountability, mechanisms to increase intergovernmental cooperation, and the like. These issues are important, to be sure. Federalism is a primary value for Canadians, and a well-functioning federal system is of fundamental significance. But the issues of federalism have to be balanced with other values, including values concerning the substance of Canadian social policy and the kind of community or communities we are seeking to build on the northern half of the North American continent.

Social citizenship and pan-Canadian social policy

At the core of the debate is the question of whether the concept of social citizenship will remain relevant to our collective experience. During the postwar era, Canada built a pan-Canadian framework of social programs. The combination of benefits that the federal government delivered directly to citizens, joint federal-provincial programs in other areas, and equalization grants for poorer provinces contributed to a broadly common set of social benefits from one end of the country to another. These pan-Canadian programs represented spheres of shared experience, important elements of daily life that Canadians held in common, irrespective of the region in which they lived or the language they spoke.

This Canadian experience was part of a much larger trend across western democracies. As the British sociologist T.H. Marshall noted 50 years ago, social programs had added a new social dimension to citizenship in democratic countries. In previous centuries, citizenship had come to embrace civil rights and political rights, such as the right to vote. During the twentieth century, a social dimension was added to the concept of citizenship, by creating a structure of social rights and obligations which individuals enjoyed not on the basis of their class, religion, language or place of residence, but by virtue of their common status as citizens.

On the face of it, the idea of a social citizenship would seem to confront a serious challenge in federal states, which must strike a balance between the community of all citizens and a diversity of communities defined in regional and cultural terms. It is striking, however, that federal states did establish a common framework for health care and core income-security programs such as pensions, unemployment insurance and child benefits. This was the case not simply in federations with relatively homogeneous societies, such as Germany and Australia. It was also true of very decentralized federations such as Switzerland, and multi-nation federations such as Belgium and Spain. The mechanisms that established this framework differed; and the detailed definition of programs and their delivery were often the

responsibility of regional governments or local organizations. But in virtually all of these cases, a country-wide framework defined key parameters such as access to health care and the basic structure of pension benefits. Democratic politics clearly generates potent political pressures for broadly comparable social benefits, even in the most internally diverse of societies. In this sense, the Canadian experience has not been unique or surprising.

Is social citizenship still a relevant concept for Canadian social policy? Or is it a twentieth-century idea that we should set aside as we prepare to enter a new century? It is possible to argue that our contemporary condition calls for a more variegated sense of citizenship. The politics of identity have made us aware of the increasingly diverse communities in which we live — communities defined not only by language and region but also by gender, race, sexual orientation and aboriginal status. Our diversity is made particularly compelling by the strength of Québécois nationalism and the reality, whether we are prepared to face it or not, that Canada is a multi-nation state. All of this might seem to argue that one pan-Canadian size can no longer fit all, that we need more diverse ways of being Canadian, and that a more decentralized Canada can and should become the first truly post-modern state.

This argument is not persuasive, for several reasons. First, federalism has always been an instrument not only for accommodating diversity, but also for reflecting our commonalities. If we lacked any sense of common purpose, we could have settled on a confederacy or even a series of separate states long ago. Despite our contemporary diversities, Canadians retain common orientations to a number of social issues that confront them in their daily lives, such as health care. Second, the case for social citizenship does not insist that Canada is the only, or even the primary community in which we live. It does not deny, for example, that for most Quebecers, Quebec defines their nationality and their primary political community. The case for pan-Canadianism simply holds that Canada is one of the important communities in which we live, one of the instruments through which we respond to our collective needs.

Nurturing our sense of a common community amid our multiple identities requires that we engage, not disengage. It requires that we debate each other, argue with each other, and strike compromises with each other. Active engagement in the Canadian political community, including participation in the development of pan-Canadian social programs, has been one of the factors strengthening the sense of attachment to Canada as a country, in Quebec as well as elsewhere. Active engagement in Canada-wide debates about the contours of social citizenship has been one of the factors that has sustained the underlying commitment to the inter-regional redistribution which is implicit in many federal social programs and explicit in equalization grants.

The case for social citizenship remains compelling. It is therefore critical that we not jeopardize the prospects for pan-Canadianism as we refashion the intergovernmental instruments through which we shape and reshape our social programs.

Models of federalism: the range of choice

As a society, we have never developed a single, integrated philosophy of federalism which might guide our approach to intergovernmental relations. Instead, we have borrowed rather freely from different approaches to federalism, and embedded different models in our political practice. Nowhere is this more evident than in the postwar social union. The intergovernmental relationships that underpinned pan-Canadian programs of that era reflected four distinct models of federalism: classical federalism; cooperative federalism; co-determination; and interprovincialism. Each of these models has different strengths and weaknesses, and each generates characteristic lines of intergovernmental conflict.

- *Classical Federalism*: Sometimes called competitive federalism, this model emphasizes the independent action of each level of government using the jurisdiction and instruments accorded to it. Historically, a number of pan-Canadian programs emerged through this model in the form of benefits provided directly to citizens, including Family Allowances, Old Age Security, the Guaranteed Income Supplement and Unemployment Insurance. On the plus side of the ledger, the classical model of federalism enhances the flexibility and scope for innovation at both levels of government, and preserves relatively clean lines of accountability to the public. On the negative side, the model provides for minimal coordination between levels of government, despite the inevitable interdependence of their policies and programs. Conflict in this model tends to involve arguments about the exact boundary lines of the jurisdiction of the two levels of government, as the case of the Millennium Scholarship Fund illustrates.

- *Cooperative Federalism*: This traditional model, reflected most fully in federal-provincial shared-cost programs, dominated in the development of medicare, social assistance and postsecondary education. In its traditional form, this model provided for stronger intergovernmental coordination, but critics argued that it introduced rigidities into provincial planning, obscured the visibility of the federal role, and tangled lines of accountability. The model also generated recurring intergovernmental conflict over the terms and conditions associated with the programs. Nor did it preclude unilateral action, as we have been recently reminded by the introduction of the Canada Health and Social Transfer, the cuts in federal transfers, and the temporary decision by British Columbia to impose a provincial residency requirement for social assistance.

- *Co-determination*: In this model, the formal agreement of both levels of government is required before any action is possible, and unilateralism is therefore

precluded. The clearest example in Canada is the Canada Pension Plan, which can be amended only with the consent of the federal government and two-thirds of the provinces representing two-thirds of the population, a formula more demanding than amendments to most sections of the constitution itself. This model provides very strong coordination of federal and provincial preferences. Flexibility, however, is lowest here. Interlocking decision making can easily become inter-blocking decision making, creating the "joint decision trap" highlighted by some analysts of decision making in German federalism and the European Union. Conflict here is thus bred by mutual frustration and inaction.

- *Interprovincialism*: Closer to a confederal model of government than a federal one, final agreements in this approach are managed by the provincial governments. Although this model has been less extensively employed in Canada, the initiatives of the Council of Ministers of Education of Canada on comparative testing reflect the basic approach. Tom Courchene's full ACCESS model would represent a strong version of this approach to social governance.

The contemporary period is seeing a significant rebalancing of the models through which pan-Canadian programs are designed and redesigned. The role of cooperative federalism is clearly in long-term decline, a process which began decades ago. The critical issue is which models will expand as it shrinks.

One possibility is a strong expansion of classical federalism, with pan-Canadian programs depending increasingly on the federal government drawing on its spending power to expand the range of social benefits that it provides directly to Canadians. The Millennium Scholarship Fund represents a quintessential example of this approach. The other possibility is a strong shift toward the co-determination model. The commitment in the 1996 Speech from the Throne that the federal government will not initiate any new shared-cost program without the formal support of a majority of the provinces represents a move in this direction. More importantly, the proposals advanced by provincial governments for an intergovernmental framework establishing joint control over all aspects of the federal spending power, including the interpretation of the Canada Health Act, the establishment of joint programs, and the launching of new direct federal transfers to citizens would, if implemented, represent a major expansion of the co-determination or joint decision model.

The new balance

The diversity of intergovernmental models that undergirded the postwar social union might be seen as a sign of confusion by those burdened with excessively ordered minds. However, there are strengths in diversity. A variety of models and instruments means that the system as a whole is less likely to be blocked if one instrument fails. The value of diversity in decision models argues powerfully for the preservation of the federal

government's right to make direct transfers to citizens, unhindered by the need for formal provincial approval. This is not necessarily an argument for federal unilateralism in planning. The example of the National Child Benefit stands as a salutary reminder that policy development can be collaborative and interdependent even when, in formal terms, governments are operating within the classical model.

In the case of federal-provincial programs, however, a stronger commitment to joint-decision processes can help ease the tensions generated by the unilateralism of the last decade. In comparison with many federations, there has been remarkably little institutionalization of federal-provincial relationships in Canada. There is no formal requirement that federal and provincial governments come together regularly to consult on social policy issues; there are few established procedures concerning advance notice, openness and transparency in intergovernmental diplomacy; and with the exception of the Canada Pension Plan, there are no rules requiring joint control over changes to federal-provincial programs. It is not surprising, therefore, that decision processes have tended to oscillate over time. Our intergovernmental history has been a cyclical one of new beginnings and new partnerships, punctuated by periods of unilateralism, tension and acrimony. Our recent history underscores the costs of this low level of institutionalization. There were no federal-provincial norms, processes or rules in place to help manage the deep expenditure cuts in the 1980s and 1990s.

One of the major casualties has been trust. Modern political theorists, alarmed by the erosion of confidence in government, increasingly reflect on the nature and origins of trust in political life. Trust among citizens themselves, trust between citizens and state and, in the Canadian case, trust between levels of government all seem to be fragile bonds in the contemporary world. Although the growing literature on trust extends into a wide range of concerns, it clearly identifies consistency, openness and predictability as critical to the nurturing and building of trust in politics as in our personal lives. There is no question that the unpredictability of decision processes has had a corrosive effect on the level of trust in the intergovernmental world. There is much that can be done to build greater predictability and transparency into intergovernmental agreements, to consolidate a joint-decision process for the initiation of any new shared-cost programs, to find advisory mechanisms that can help to mediate conflicts over specific provisions in existing programs such as the Canada Health Act, and to monitor social progress across the country.

Nevertheless, it is important not to build such an elaborate set of joint-decision rules that they become a joint-decision trap which produces delay and inaction. At the extreme, it would be possible to create such a complex set of rules that no federal politicians would ever turn to the federal-provincial option. The barriers are already high. The combination of the need for

majority provincial support for any new shared-cost program together with powerful pressures for opting out with compensation for provinces agreeing to mount a comparable program already stacks the deck against new programs. Imposing even more rigid joint-decision rules will further reduce the probability that future federal governments would choose to put money into joint programs. This might be an agreeable outcome for some governments currently at the table. But it would not augur well for the future of social citizenship in Canada.

To some extent, rigidity in joint decision-making in the federal-provincial arena is kept in check by the capacity of the federal government to provide direct benefits to citizens. Federal politicians of the future will insist on their relevance to the daily lives of Canadians. They will insist on responding to the evolving social needs of Canadians. If the rules governing joint federal-provincial programs become too unattractive, they will instinctively gravitate toward direct transfers to citizens, even if that is not always the most effective route forward in policy terms. Provincial governments should be careful not to create a set of processes that lock federal politicians into policy instruments that future provincial leaders might regret.

Conclusions

Social citizenship and a common framework for social programs remain compelling elements of the Canadian political community. It is important that the current political struggle over the social union not compromise the capacity of future generations of Canadians to redefine the parameters of social citizenship in light of their own experiences and values. In particular, it is important to recognize the diverse ways in which pan-Canadian programs can be developed, and to preserve the flexibility inherent in multiple models of federalism.

The search for a conflict-free system of intergovernmental relations is a quest for a holy grail that can only disappoint. Each possible model generates its own tension points, frustrations and conflicts. Moreover, overly complex joint-decision regimes for certain policy instruments will simply drive politicians to other, more flexible instruments. Within those constraints, however, there is substantial room for improving the governance of the social union. A firmer institutionalization of intergovernmental decision making about federal-provincial programs can provide greater predictability and transparency, and over time contribute to a climate of greater collaboration in the endless process of designing and redesigning Canadian social programs.

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