

by Thomas J. Courchene

# IN PRAISE OF PROVINCIAL ASCENDENCY

*À la lumière de la récente conférence annuelle des premiers ministres, l'auteur salue le rôle accru que jouent les premiers ministres dans le traitement des effets de débordement inter-provinciaux et dans la formulation d'une vision pan-canadienne. Le leadership et le dynamisme énergiques et créatifs sur les questions de politique sociale se sont déplacés d'Ottawa vers les provinces. Il faut pourtant plus que cela. Ottawa doit prendre une part active à ce processus de renouvellement et accepter de collaborer davantage avec les provinces au chapitre de l'union sociale. En outre, pour contrer les critiques voulant que les premiers ministres provinciaux et territoriaux ne cherchent qu'à se faire du capital politique, les provinces devront livrer la marchandise sans tarder et assortir de gestes concrets leur discours sur l'union sociale canadienne.*

Taking their cue from the 1995 federal budget which asked the provinces to join with Ottawa to develop mutual consent principles to underpin the social union,

the premiers responded by revitalizing and re-orienting the Annual Premiers' Conference (APC). This is a long overdue institutional innovation, given that its role in addressing cross-province spillovers and articulating a pan-Canadian vision is the necessary complement to the enhanced powers of the provinces. As a result, creative policy leadership and dynamism on the social policy front has shifted from Ottawa to the provinces. However, more is needed. First, Ottawa must buy into this process to create what might be called a domestic Team Canada. Second, in order to address the criticism that the APC process is in reality a cleverly devised power grab, the provinces must soon deliver some meaningful substance to match their pan-Canadian rhetoric.

## The emergence of the APC

Following the 1995 budget, the premiers formed the *Ministerial Council on Social Policy Review and Reform*. The result of the Council's deliberations was the impressive *Report to Premiers*, which was made public at the 1996 First Ministers' Conference and featured centre-stage at the 1996 Jasper APC. What was surprising and indeed remarkable was the "pan-Canadian" nature of the document. Under four overarching objectives (Social policy must 1) be accessible; 2) reflect our individual and collective responsibility; 3) be affordable, effective and accountable; and 4) be reasonably comparable across Canada) the *Report* articulated 15 social policy principles, the vast majority of which would resonate well with Canadians. The premiers not only signed on to the *Report*, but advanced the process further by directing the Ministerial Council to "design options for mechanisms and processes to develop and promote adherence to national principles and standards," which could be provincial/territorial and/or federal/provincial/territorial in nature.

The so-called "mechanisms paper" (*New Approaches to Canada's Social Union: An Options Paper*), which was endorsed by the premiers at their 1997 St. Andrew's APC, provided a range of options for decision making and dispute resolution for either federal-provincial or interprovincial agreements. At one level, sceptics could claim that this was an elaborate process paper in search of some relevant *substance* to which it might apply.

Aspects of substance quickly followed. In the fall of 1997 the premiers (absent Quebec) produced the *Calgary Declaration*, a national unity position paper whose significance is woefully underappreciated. While admittedly cast in the context of equality of the provinces, the Calgary Declaration opens the door for Ottawa to make special deals with Quebec (or any other province), the only proviso being that these arrangements must then be offered to other provinces. To my knowledge, this is the first time that, in practice if not in principle, the nine provinces have effectively endorsed asymmetry and, to a degree, duality as well.

The 1998 Saskatoon APC again moved into uncharted territory. Apart from issuing a series of communiqués on an incredibly wide range of national pol-

icy issues (health care funding, education, transportation, R and D, international trade, the provinces' role in trade agreements, and so on), the APC released several comprehensive position papers on the social union, on equalization and on Employment Insurance premiums. What these important background papers do is bring these traditionally arcane and behind-closed-doors fiscal federalism issues into the public domain.

Beyond this, the APC is evolving into a much more effective institution on the interprovincial front than the First Ministers' Conference (FMC) ever was on the federal-provincial front. There are several reasons for this. The APC has a fixed date each year (August). Its agenda is known well in advance, and there are clear procedures for placing issues on this agenda. This means that individual provinces have adequate time to prepare and table working papers relating to the agenda and, as we have seen, to develop consensus positions on a range of policy areas. Like the European Commission presidency, the chair of the APC rotates among the premiers each year. This tends to ensure a "bootstrapping" effect — successive chairs attempt to advance the process in important, yet doable, ways. None of these features characterize the FMCs. Hopefully they soon will.

### Rationale for a revitalized APC

Is the emergence of the APC and, more generally, the pan-Canadianism of the provinces, simply an arbitrary development or is it an institutional response to an altered governance and policy environment? This latter theme was an integral part of my 1996 ACCESS paper (*A Convention on the Canadian Economic and Social Systems*) published just prior to the 1996 Jasper APC. The motivation for ACCESS was that internal and external forces were making it imperative that the provinces be brought more fully and more formally into the governance of the federation and, in particular, into the process of preserving and promoting the pan-Canadian socio-economic union.

On the domestic front, several issues contributed to ensure the revitalization of the APC. First, Ottawa proved to be a most unreliable partner on the social policy front with its successive series of caps, freezes and, with the Canada Health and Social Transfer (CHST), dramatic cuts to transfers. Second, with the decrease in cash transfers Ottawa was losing both the financial capacity and moral authority to continue to impose a top-down (*i.e.*, unilateral federalism) approach to securing the socio-economic union. Third, the federal approach to transfers was becoming progressively riddled with regional inequities (the cap on the Canada

Assistance Plan (CAP) carried over to the CHST, Employment Insurance (EI) variable entry requirements and the federal confiscation of EI premiums, the allocation across provinces of funding relating to immigrants), so much so that societal support for redistribution was being eroded. Finally, but not exhaustively, the progressive restructuring and integration of health and welfare across the provinces meant that the traditional "negative integration" approach (*i.e.*, thou shalt not...) to the social union had to be replaced by "positive integration" or a proactive meshing of provincial programs which only the provinces can deliver.

The challenges arising from the external front were quite different. With trade increasingly becoming north-south (roughly 40 percent of Ontario GDP is now exported to the US) and the consequent rise of what I have called "region

states," the provinces will play a much more important policy role in terms of ensuring their economic futures in the emerging geo-economic (North American) reality. In turn, this likely implies increasing heterogeneity in terms of provincial policy preferences. One view of the APC process is that the provinces are attempting to come to grips with designing a pan-Canadian framework within which this needed policy flexibility can be exercised.

states," the provinces will play a much more important policy role in terms of ensuring their economic futures in the emerging geo-economic (North American) reality. In turn, this likely implies increasing heterogeneity in terms of provincial policy preferences. One view of the APC process is that the provinces are attempting to come to grips with designing a pan-Canadian framework within which this needed policy flexibility can be exercised.

### Subsidiarity and co-determination

Meanwhile, the federal-provincial environment has remained anything but static. Many of the policy areas that loomed important when physical capital rather than human capital was dominant, such as forestry and mining, were devolved to the provinces. So was training. And Ottawa unilaterally constrained its exercise of the federal spending power. Severely complicating all of this was the federal decision in December of 1997 (in response to a proposal by Ontario that it might follow Quebec's lead and establish its own personal income tax system) to allow the provinces full rate and bracket flexibility under the shared personal income tax (PIT) system. This raises the spectre of flat PIT rates in some provinces and very progressive ones in others.

The key point here is that the Canadian federal system is decentralizing at a rapid pace. The corresponding challenge is to design new instruments in this decentralized environment in order to secure the east-west social and economic union. I submit that the co-determination (intergovernmentalism) imperative of the ACCESS model is precisely one such instrument, one which is seeing the light of day in the APCs.

At one level, an argument can be made that these recent initiatives in the federal-provincial arena are fully consistent with the dictates of "subsidiarity" — the

## The Canadian federal system is decentralizing rapidly. The challenge is to design new instruments to secure the east-west social and economic union.

most mobile factor of production, capital, is being passed upwards (e.g., Ontario's willingness to transfer regulation of the securities industry to Ottawa). The least mobile, land and infrastructure, is being passed downward, often to the local level (airports, etc.) while key aspects of the third factor, labour, are being devolved to the provinces. This is what the principle of subsidiarity would imply — those factors of production with the greatest “spillovers” should be passed upwards. Indeed, if Paul Martin has his way, key aspects of regulating capital would be subsumed under an international regulatory agency. Intriguingly, the regulation of the environment is also evolving along subsidiarity lines with those components embodying the largest degree of spillovers remaining under federal supervision. In this sense, the federation is evolving as it should and a revitalized APC is a key ingredient of the new governance imperative.

### Human capital and co-determination

There is, however, one general policy area that is increasingly of concern in terms of the way the system is evolving, namely the human capital dimension and the related income distribution issue since the returns to highly skilled workers are rising and those for the less-skilled are falling. Except for the elderly and EI, this general area falls largely under provincial jurisdiction. But there are at least three features of the human capital revolution that pose important challenges for the *status quo*. First, with knowledge progressively at the cutting edge of competitiveness, human capital becomes the essence of future prosperity. As such, Ottawa can hardly be excluded from playing a significant role here, regardless of the constitutional written word. Second, globalization and the information revolution are making the highly skilled much more mobile and, like physical capital, much more difficult to regulate and tax since they can and are opting for more favourable economic climates. Apart from the fact that Canadian governments will have to lower marginal tax rates on human capital, professional and occupation credentials are not fully mobile across Canada. This is appalling, since now that Canada is no longer a single national economy, we must become increasingly an east-west, human-capital union. Third, to the extent that key provinces are in the process of becoming North American region states, this creates a further problem for income distribution since region states everywhere are directing their policy attention more toward wealth creation than toward income redistribution. Who will look after the economic casualties arising from increasing allocative efficiency at the provincial level?

At one level, the APC process has responded well to this last challenge. The recent National Child Benefit became a reality when the federal government bought into the APC recommendation for an integrated national approach to child benefits. Should this not proceed further? Were Ottawa to have responsibility for children as well as the elderly, this would allow the

provinces the flexibility to create integrated programs for their working age population (integrating welfare, apprenticeships, education, training and aspects of EI into a comprehensive subsystem).

In terms of the second of the above human capital challenges, however, the APC process is not fulfilling its potential. Indeed it is failing Canadians. While I have waxed eloquent on the virtues of the provinces' emerging pan-Canadianism, perhaps Canadians are correct to take a sceptical view of the provincial commitment to co-determination, since there are several policy areas, largely under their own control, where they ought to convert rhetoric into substance. As noted in ACCESS, foremost among these is the need to create a national market in credentials by embarking on a process of “mutual recognition” of occupational and professional licensing across provinces. This should be simple, process-wise. All it would take would be for, say, three or four provinces to design template legislation to mutually recognize provincial occupational and professional training. This would require a dispute resolution mechanism, but unlike that in the *Agreement on Internal Trade*, it must be one that could be triggered by citizens. Why not place the burden of occupational equivalency on governments? (i.e. if the system does not respond within six weeks to a claim by a citizen, equivalency will be automatically proclaimed). If the Australian experience with respect to mutual recognition is any guide, all other provinces will quickly sign on: their citizens will ensure that this is the case. Were the APC to take this challenge as a priority, it could become a *fait accompli* very quickly. And in the process, it would give the provinces' new initiative a degree of credibility and pan-Canadianism that it apparently lacks in the wider Canadian society.

The first of the human capital challenges, namely Ottawa's role in post-secondary education and the creation of human capital generally, has moved to centre-stage with the announcement of the Millennium Scholarship Fund. The answer to the ongoing federal-provincial tug-of-war here is again found in the principle of subsidiarity. For those components of human-capital development that involve extra-provincial externalities or positive spillovers (e.g., infrastructure/information aspects) there is an obvious and necessary federal role (including education vouchers for students), whereas issues relating to institutions and implementation are appropriately provincial (preferably interprovincial for selected aspects). This is clearly an area where co-determination is critical and where some version of APC/FMC summitry can play a key role.

### Summary

It is, of course, true that provincial premiers and governments are primarily responsible to their own citizens. As such, it may seem anomalous that they can be creative, major players in designing and delivering pan-Canadian principles and/or standards in social policy. But if the nation states of the EU can design hundreds

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.

**Thomas Courchene** is Jarislowsky-Deutsch Professor of Economic and Financial Policy, and Director, John Deutsch Institute for the Study of Economic Policy, Queen's University.

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.*