

Cities and the Need for Institutional Reform

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Abstract

The importance of cities is growing in Canada, particularly with global trends in urbanization. Cities exclusion from the constitution, however, demonstrates their lack of any sense of formal legitimacy within the Federation. Municipalities are subordinated to a complex system of multilevel governance which situates them within the Canadian Federation as, what Thomas Courchene refers to as, "creatures of the provinces." Given their rising importance, the subordinated role of cities provides formidable challenges for the delivery of services in Canada's urban centres. By examining examples of structural as well as well as procedural reforms, this paper outlines the importance of establishing more informal intergovernmental dialogue as the best practice for enhancing the role of cities in the current political climate.

Cities around the world are quickly reinforcing their role as hubs of economic prosperity, social and creative flourishing, as well as the "backbone of nation states and the primary source of global investment" (Dobson 2010, 35). Urbanization is not a new phenomenon; however its interaction with existing governing structures requires innovation on the part of government institutions. With regard to Canada, Constitutional divisions of power leave the unique voice and concerns of cities¹ within the jurisdictional representation of the provinces. As noted by Thomas Courchene, Professor of Economic and Financial Policy at Queen's University, "cities are creatures of the provinces" (Courchene 2007). Municipalities are subordinated to a complex system of multilevel jurisdiction. Canadian cities, then, have little ability to address unique urban concerns when subordinated to the power and decision-making capabilities of higher levels of government. This disjointed approach to intergovernmental affairs creates gaps in service and funding for Canada's urban centres.

¹ For the purposes of this paper, Canadian cities will also be interchangeably referred to as municipalities and urban centres.

It is the purpose of this paper to outline the importance of institutional reform to better capture the voice and concerns of cities in Canada, while also assessing the prospects of success within the current constraints of existing political institutions in Canada. Given the current division of powers within Canada, and the increasingly important role of cities, this paper will demonstrate the significance of institutional reform as a policy objective. After briefly outlining the importance of Canadian cities to reinforce the severity of the policy issue, an examination of possible reforms to the status quo will be presented. This paper will argue against structural reforms to intergovernmental relations, such as an increase in revenue for municipalities, based on real constraints from the federal and provincial governments. It will be argued that progress is more likely to occur in informal reform of the process of intergovernmental relations. Facilitating dialogue between municipal, provincial and federal governments seems a plausible alternative to more controversial recommendations of Constitutional reform.

The Importance of Cities

Cities have a long history as some of the most influential and powerful ways to organize people. Dating back to the era of Italian city-states, many cities, such as Venice and Naples, were autonomous regions. Cities had the power to collect taxes, direct commerce and even raise armies. Although the modern conception of cities is subordinated within “the apparatus of the sovereign state,” their importance has not diminished (Sancton 2008, 9). In fact, in some ways, cities are more vital to national power and wealth than ever. For example, 80 per cent of Canada’s population lives in urban centres, making it one of the most urbanized countries in the world (Bradford 2007, 1). In 2005, 34.5 per cent of the total population lived in the three largest city-regions of Toronto, Montreal and Vancouver, with 51.2 per cent of the population living in just nine census metropolitan areas (CMAs)² (Slack and Bird 2007, 3). Canadian cities, CMAs in particular, now hold the majority of Canada’s population.³ According to Neil Bradford, Professor of Polit-

2 By CMA, it is meant a city-region with a recognized population over 100,000.

3 In fact, the rate of urbanization in Canada has grown substantially since the turn of the 20th century. Canada has moved from 30% urbanization to 80% in less than a century. See (Bradford 2007, 1) for more detail.

ical Science at the University of Western Ontario, this creates large “knowledge pools” (Bradford 2007, 2). The most important flows of people, investment and ideas intersect in urban centres not just in Canada, but around the world.

The economic importance of cities becomes evident when examining Canada’s CMAs. Large city-regions are the main drivers of economic prosperity for the provinces in which they are located. For example, Halifax accounts for 47 per cent of Nova Scotia’s Gross Domestic Product (GDP); Montreal accounts for 49 per cent of Quebec’s GDP; the Greater Toronto Area produces 44 per cent of Ontario’s GDP; Winnipeg accounts for a significant 67 per cent of Manitoba’s GDP; while Vancouver accounts for 53 per cent of British Columbia’s GDP (Slack and Bird 2007, 29). These are significant centres of economic prosperity that fuel the economic competitiveness of Canada as a whole. It is expected that 80 per cent of future economic growth will occur in Canada’s six largest city-regions (Slack and Bird 2007, 29).

Cities as a Policy Priority

Cities are taking on an increasingly predominant role within the development of the Canadian nation. The vast majority of Canada’s citizenry live, work, and in many ways, shape their identity based on the city-region within which they reside. Both government and private services are accessed most often in municipalities, not rural regions. Scholars such as Warren Magnusson and Gerald Frug argue that cities in which people live are the locations that are most politically meaningful (Sancton 2008, 22). The policies and services that municipal governments are responsible for have the most direct affect on peoples’ lives. Garbage collection, infrastructure, and snow removal are but a few of the services that municipalities provide. As cities grow larger, the range of services provided by municipalities will only increase. Cooperation among levels of government in Canada, then, becomes essential. Public policy and the funding associated with such decisions must be allocated in efficient ways to meet the unique needs of Canada’s urban centres. The status quo, however, leaves cities marginalized and subordinated to decisions from higher levels of government. For Canada to remain prosperous, disjointed approaches to intergovernmental affairs must be addressed to better capture the importance of cities.

The Canadian Constitution outlines jurisdictional duties of the federal and provincial governments, however, makes no reference to municipalities. Under Section 92 (8) of the Constitution Act of 1867, “municipal institutions in the province” are subject to the exclusive powers of the Provincial Legislature (Government of Canada 1867). Legally, then, municipalities are subordinate to decision-making powers of higher levels of government, particularly the provinces. Moreover, when policy is drafted within the federal or provincial legislatures, there are no formal mechanisms for municipalities to voice their concerns. Aside from informal meetings and a few provincial initiatives, cities lack proper representation in drafting policy related specifically to urban concerns. This is particularly troubling for larger cities. As aforementioned, Canada’s CMAs face important and unique challenges that affect the country as whole, or at the very least, the provinces in which they are located.

Given the disjointed nature of Canadian intergovernmental affairs, finding ways to better incorporate the voice of cities in policy that directly affects municipalities is one of Canada’s greatest policy challenges at present. Without attention to the issue of properly incorporating cities into intergovernmental affairs, Canadian CMAs may lag behind other global urban centres in attracting the knowledge pool that is essential for sustained economic growth. Moreover, without proper support of municipal concerns, 80 per cent of Canada’s population lacks proper representation of concerns that affect them uniquely. It must be recognized that for Canada to remain prosperous in the 21st century it must innovate. Although this may be less controversial in terms of education and economic policy, it also holds for intergovernmental affairs. Intergovernmental affairs must be adapted to meet the specific needs and challenges of Canada’s growing municipalities. How to better incorporate municipalities into intergovernmental policy-making, however, remains convoluted.

Possible Steps Forward – Structural Reforms

Many scholars have devised complicated and interesting potential resolutions of how best to address the challenge of better incorporating municipalities into Canada’s decision-making framework. For purposes of clarity, this paper will distinguish between *structural* and *process* changes to the current system. Structural changes would represent

alterations to the most basic levels of decision-making, revenue generation and even boundaries of jurisdiction. For example, Jane Jacobs has been a proponent of establishing separate currencies for Canada's CMAs whose value is determined by a "free float" system in relation to the currency of other cities (Sancton 2008, 12). Jacobs argues that cities are always in different economic stages. Toronto may be in an economic downturn, while Vancouver is in an economic boom. Moreover, jurisdictions should not be based on artificial boundaries. Rather, Jacobs maintains that boundaries of city-regions should be fluid and dictated by the economic energy of the city-region (Sancton 2008, 11).

Such structural reforms are highly complex and controversial. Although an examination of the economic benefits of Jacob's reforms are beyond the scope of this paper, recommendations of this type seem implausible given the constraints of Canadian political institutions. Drawing on the work of Andrew Sancton, Professor of Municipal Government at the University of Western Ontario, the demarcation of boundaries within Jacobs' system is blurred (Sancton 2008, 11). Granting Jacobs that city-regions are fluid and expand when the economic energy dictates, it is unclear how boundaries should be drawn. Since urban centres are as dynamic as Jacobs illustrates, there would be an almost infinite variety of ways to geographically outline the boundaries of an autonomous city-region. Issues of what suburbs or rural regions should be included are unclear. Given Jacobs' importance of clearly defined city-regions for purposes of economic autonomy, ambiguities in border demarcation seem too complex and controversial an issue for Canada to adopt such a system.⁴ Therefore, this paper does not support structural reform that calls for a geographical reworking of autonomous regions within Canada due to the ambiguity and controversy surrounding such proposals.

Less controversially, many scholars have argued for structural reforms that provide fiscal autonomy to Canada's municipalities rather than geographical independence. Often issues of accountability arise in the gap between revenue generation and policy implementation. As noted by Courchene, "people are not enthusiastic about city officials

⁴ It should also be noted that given the economic dependency between cities and states, it seems unlikely that an international agreement could be reached on establishing separate municipal currencies. This would pose a serious obstacle to Jacobs' system, particularly within the interconnectedness of a global economy.

because they are largely administrators and the purse comes from somewhere else” (Courchene 2007, 31). That is, while federal and provincial legislatures draft policy and determine the budget for the implementation of required services, municipalities are often relegated to a distributive role. Federal and provincial governments are open to a wide variety of revenue generation methods. Federal and provincial taxes and fees include ad valorem taxes such as the harmonized sales tax in some provinces, income tax, and even taxes on immigrants entering the country.

Municipalities, on the other hand, are limited to revenue generation through property tax, and in some instances, liquor and entertainment licences, and other small municipal fees. In this sense, a gap emerges in accountability between policy-makers and policy implementers. Enid Slack, Professor of Municipal Finance at the University of Toronto, argues that ideally, those who make spending decisions, those who receive benefits, and those who pay the taxes should all be the same people. Slack notes, “when the level of government making the spending decisions (municipalities) is not the same as that raising the money (provincial or federal governments), accountability is blurred” (Slack and Bird 2007, 35). In this sense, scholars such as Slack have argued that municipalities should therefore be given not money, but the ability to raise more substantial revenue on their own. The thought is that this would create clear lines of accountability between the citizenry and the government.

Providing a higher level of fiscal autonomy to municipalities has been attempted in Canada, however, with little success. In 2005, the federal government proposed “shar[ing] up to five cents per litre of gasoline” with municipalities. Provinces responded; for example, Ontario agreed to share two cents per litre of tax revenue with the municipalities (Slack and Bird 2007, 25). Although a step in the right direction in providing municipalities a stable source of funding for designated infrastructure projects, it has done little to address the unique concerns of cities. Initially the transfer of funds to municipalities was to be divided 70 per cent by per capita population, and 30 per cent by public transit ridership to offset the higher cost of public transportation in Canada’s CMAs (Slack and Bird 2007, 25). This provision was not included in the final agreement. Instead, gas tax transfers are

based solely on per capita population. In effect, gas tax transfers to municipalities are just further funding from higher levels of government. No special revenue generation has been given to urban centres, particular CMAs. Therefore, no progress has been made on the issue at hand – how to better capture the needs of Canada’s urban centres. Further funding from the federal and provincial governments helps to alleviate budget constraints, however it does not address issues of municipal representation in policy-making.

Given attempts at structural reform, why have they proven unsuccessful in incorporating municipalities into decision-making thus far? Firstly, there is a lack of political will from federal and provincial legislatures in granting municipalities greater autonomy through structural reform. There tends to be an over-representation of rural and small communities in both the federal and provincial legislatures. Based on the placement of ridings throughout the country, rural ridings get a per capita over-representation for their concerns. In effect, initiatives such as the gas tax transfer are re-written to treat CMAs, mid-level cities, and rural towns equally based on a per-capita transfer. This loses the essence of municipal initiatives – to provide municipal governments, particularly those of CMAs, more influence and revenue generation for principally urban concerns.

In a more realist sense, provincial governments are also unlikely to provide further autonomy to cities for fears of rivalry. In examining issues of jurisdictional responsibility, provinces have sole authority in granting municipalities greater autonomy; whether by way of revenue generation or policy-making. Provincial legislation sets out the powers of municipal governments in municipal or local government acts. In this sense, the federal government essentially plays a “third wheel” when it comes to urban issues. Provincial governments could, if they wished, create effective and somewhat more autonomous ‘governance’ structures for their metropolitan regions.⁵ For the most part, however, they have chosen not to do so. As stated by Slack, “[p]rovincial governments will continue, as always, to be extremely reluctant to give more revenue-raising authority to big cities, both because they are (for the most part) feeling fiscally pressed themselves, and

⁵ This is to be contrasted with a state like Mexico, where the Constitution strictly prohibits the existence of any ‘intermediate’ level of government between the local municipio and the state. See (Slack and Bird, 37-38) for more detail.

because they see no reason to build up potential political rivals” (Slack and Bird 2007, 34). This raises an important insight into intergovernmental relations in Canada. Amidst their complexity, there is a real component of competition. In this sense, it is unlikely that provinces will relinquish jurisdictional authority over municipalities, particularly CMAs. As aforementioned, cities are the economic drivers of the provinces. Granting autonomy to cities, in any form, will undermine the influence of the provincial government – something they are likely unwilling to cede.

Secondly, with regard to issues of jurisdiction, there is a real and deep interconnectedness between cities and higher levels of government. Although sometimes inefficient, and lines of accountability are sometimes blurred, granting structural reform to cities through a level of autonomy seems troubling. Due to the geographical vastness of the country, as well as the provisions outlined in the constitution, several issues overlap multiple jurisdictions. Moreover, because of the right of mobility afforded under Section 6 (2) of the Charter of Rights and Freedoms, cities would likely only ever be autonomous in a very limited sense (Government of Canada 1982). For example, issues of national security, immigration, and to a lesser degree healthcare and education, transition between multiple jurisdictions. Cities, then, depend on a national, or at least provincial, framework on several policy issues. It is difficult to imagine cities implementing and financing all services provided to its citizenry. In this sense, this paper advocates for maintaining the status quo multilevel governance structure in Canada. How then, can intergovernmental affairs and policy-making be reformed to better capture the unique concerns of municipalities?

Reforming Process Leads to Progress

This paper maintains that reforms to the *process* of intergovernmental affairs are likely to yield better recognition of cities than attempts at reforming their structure. Rather than focussing on greater autonomy for municipalities, the remainder of this paper will focus on methods of enhancing democratic multi-governance by better coordinating all three levels of government with respect to urban issues (Cameron and Simeon 2002, 69-70). Although perhaps not offering as robust a solution as some structural reforms, given the aforementioned constraints of Canadian political institutions, procedural reforms seem to hold the greatest prospects of successfully addressing the needs of cities.

Such procedural reforms are not new in the Canadian case. Examining intergovernmental relations outside the realm of urban affairs, it becomes evident that Canadian governmental institutions are open to at least some reform of policy-making procedures. For example, the federal government has worked closely with the Canadian Aboriginal community to incorporate them into discussions that directly concern them. The current Conservative Government's decision to block the foreign takeover of Potash Corp. in Saskatchewan was in part formed by consultations with the local Aboriginal community. The Government expressed concern for Aboriginal consultation in the extraction of Potash from Saskatchewan (CBC 2010). Although likely overstating the importance of deliberations with First Nation's representatives in the federal government's decision to block the bid, it shows a willingness by the federal government to bring Aboriginals into the decision-making process and allow them to voice their concerns .

More importantly for this paper however, both the federal and provincial governments have been open to extending a cooperative model of policy-making and implementation to municipalities. For example, the Winnipeg Urban Development Agreement provides an example of how cooperation among the three levels of government can work. The agreement was a five-year commitment to increase economic development and employment opportunities in Winnipeg. Under the agreement, the three levels of government worked with community and business leaders to support economic development. Each level of government funded and delivered its own programs; however, they were developed in cooperation with the other two levels of government and approved by a policy committee comprised of federal and provincial ministers, as well as the mayor of Winnipeg (Slack and Bird 2007, 29). The program has been a great success. Although initially expiring in 2001, it has since been renewed twice. Such cooperation demonstrates that cities can be incorporated into the drafting and implementation of policy related to issues of urban context.

More such cooperation is needed. In addition to the implementation of specific multi-governance initiatives such as the Winnipeg Urban Development Agreement, a more general institutional framework for collaboration among all three levels of government

regarding urban issues should be developed. Ideally, municipalities, particularly CMAs, should be explicitly consulted in areas that affect them directly (Slack and Bird 2007, 29). Immigration, for example, is largely an urban issue yet there is no formal mechanism for the involvement of cities in the policy-making process. By incorporating urban centres into the deliberation of relevant policy-making, cities may voice their concerns regarding particular government policies.

It should be noted that one potential drawback of such an open system of intergovernmental consultation is stagnation within policy-making. Adding an extra player in the process, namely cities, complicates federal and provincial governments' ability to draft policy and pass legislation. Jamie Cameron, Professor of Law at York University, refers to this as the "joint decision-making trap" (Cameron and Simeon 2002, 66). This is commonly observed in the European Union. When autonomous, interdependent actors commit to "consensus decision-making" (Cameron and Simeon 2002, 66), it becomes difficult to establish mutually accepted decisions. Although a legitimate concern, the system of procedural reform advocated in this paper respects the constitutional authority of the federal and provincial levels of government. That is, municipalities would not be considered equal partners to the federal and provincial governments. Rather, they would be consulted and present during deliberations on policy-making related to urban issues.

In recognizing that municipalities are likely to remain a junior partner in intergovernmental affairs, it is the recommendation of this paper that Canadian governmental institutions seek to revive cooperative institutional frameworks such as the 1969 Joint Municipal Committee on Intergovernmental Affairs (hereafter JMCIR). The JMCIR was a joint initiative between the Canadian Federation of Mayors and Municipalities, as well as sixteen provincial representatives. The JMCIR proposed a tri-level council, to which municipalities would be a junior partner, which would facilitate direct consultations between all three levels of government on issues related to urban policy in Canada (Feldman and Graham 1979, 32). Although rejected at the time due to aforementioned fears of municipal autonomy, intergovernmental cooperation seemed more open to such a general institutional framework at this time. Likewise, the cooperative model of economic development

in Winnipeg suggests not only that all levels of government are open to the possibility of joint-deliberations, but that on some level, they are helpful in addressing specifically urban concerns.

The general framework advocated for in this paper, then, is more of a deliberative model. It does not seek to extend autonomy to Canadian municipalities, rather, a framework is needed to provide municipalities a voice in joint-decision making regarding urban affairs. In this sense, municipalities would be given what Janice Stein, Professor of Political Science at the University of Toronto calls, “shared policy space” (Gibbons, Maioni and Stein 2006, 57). Cities would be given the opportunity to voice concerns and cooperate with higher levels of government to draft more comprehensive and better informed policy. The general framework of reforming the institutional *process*, then, would enhance municipalities’ input legitimacy in the formation of urban policy.⁶ That is, municipalities should be seen as having a legitimate and beneficial hand in properly addressing the needs of Canadian cities.⁷ Through continued initiatives such as the Urban Development Agreement in Winnipeg, a “progressive incremental” process occurs where cities are incorporated into the input of urban policy agendas (Levin et al. 2010, 4). In this way, the unique concerns of cities are better captured by an informal intergovernmental framework, while at the same time respecting the structure of Canada’s governing institutions.

Conclusion

In conclusion, cities have, and will remain vital to the prosperity of Canada. Given the ever increasing importance of cities, Canada’s disjointed system of multilevel governance must find ways to better capture the unique voice and concerns of urban centres. Although structural alternatives may offer more ambitious improvements for municipalities, given the current complexity of intergovernmental affairs in Canada, reforms of this type seem unlikely. Informal deliberative models, such as the Winnipeg Urban Development Agreement and the JMCIR, then, offer less controversial improvements to the process

⁶ For more information on input legitimacy, please see Grace Skogstad, “Who Governs? Who Should Govern? Political Authority and Legitimacy in Canada in the Twenty-First Century”, *Canadian Journal of Political Science*, 36 (5) 2003, 961-962.

⁷ It should be noted that it is beyond the scope of this paper to address concerns over the inner-workings of such an informal deliberative framework. Although an interesting topic in itself, the actual process and future benefits of such a system will not be discussed.

of joint-decision making regarding urban policy. Such institutional innovation can, and should be utilized to informally incorporate municipalities into the intergovernmental policy-making process. Intergovernmental relations in Canada are no longer strictly static approaches of classical federalism as outlined by the constitution. Many policy issues, particularly those related to cities, are highly complex and require a comprehensive evaluation by all levels of government. Extending the deliberative model of joint decision-making to cities affords municipalities a greater level of input legitimacy, and in this sense, can better capture the importance of Canada's urban centres.

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