

Forum of Federations

Conference on the 'Challenges of Metropolitan Management in Federations' held in Brasilia on March 30th and March 31st, 2004

Recent Municipal Reform in Canada with Particular Attention to the case of Toronto

by
Daniel Burns

Tdanielburns@rogers.com

Introduction

This paper is based on a presentation made to the conference. Compared to the presentation will cover a somewhat larger range of subjects and will include as a reference guide a number of web sites and a brief list of relevant documents.

The paper will focus on three aspects of municipal government and look at what has been happening in Canada with respect to each with particular attention paid to the case of the City of Toronto. The three subjects are the powers of municipal government, the structure of municipal government, and the public finance characteristics of municipal government. In concert with the focus of the conference some special attention will be given to the metropolitan aspects of these questions.

Context

- Constitutional

At the outset it is important to briefly explain the status of municipal government within Canada's constitutional arrangements. Canada has a constitution based on the British tradition. Parts of it are unwritten while others are. While national sovereignty in Britain is held in Parliament and by the Crown, in Canada it is shared by the national Parliament and the Legislatures of the 10 Provinces. In the division of powers between Canada and the Provinces, it is the Provinces that are responsible for local government. So in Canada municipal governments are not an order of government and they enjoy no constitutional status. Whatever they are and whatever they can do is the result of actions taken by Provincial Legislatures or by Provincial Governments.

Typically, a Province has a foundation law for municipal government, usually called the Municipal Act which lays out in detail the duties and powers of municipalities. In the British tradition municipalities were not governments in any generally understood meaning of that term. Rather they were municipal corporations, incorporated for the

purpose for providing efficiently a limited number of public services, often natural monopolies.

- Provincial Approaches

Canada has a long history of local government which, in eastern and central Canada, long precedes the Confederation of the Provinces in 1867. All began with some version of the British model referred to above and have evolved it since. For the purpose of this discussion I will touch only on a few reforms that are connected to the question of regional approaches.

In western Canada the most common model for governance of urban regions is the single tier municipality that covers all of the existing urbanized area and most of the rural land surrounding it. Edmonton, Calgary, and Winnipeg are all organized this way. Vancouver is the exception with the urban region being made up of many municipalities. There is a regional body for the Vancouver area focussed on transit and regional planning. Compared to the regional governments in Quebec and Ontario the one in Vancouver has had considerably less power and responsibility.

In the Provinces of Quebec and Nova Scotia the most important thing to mention is that both have recently extensively restructured the municipal governments in their major metropolitan regions. Halifax, Quebec City, Hull and all of the municipalities on the island of Montreal have been changed from numerous governments in their regions, each with some form of regional body as well, into single municipalities covering the whole geography. These reforms are intended to create a better match between the fiscal and technical capacities of municipalities and their responsibilities in an age of substantial constraints on spending throughout the public sector. Of course there are also important local issues attached to each of these, but for the purpose of this discussion I have only noted the key commonalities.

- Ontario: some history

Ontario has a long history of local government and the original law dates from the 1840's. Consistent with the constitutional approach outlined above, the law has been until recently fundamentally prescriptive in nature. Municipalities were only allowed to do what they were explicitly allowed in the law. A few years ago the nature of the law began to shift with municipalities getting the right to act in a wide variety of ways in areas that had long been their responsibility. These changes did not extend to taxation. Municipalities themselves would prefer to go much further and become a third order of government fully entrenched in the constitution. This is also the position of the national body, the Federation of Canadian Municipalities. However it is my view that constitutional change is very unlikely. Rather we will see slow change in the basic Provincial laws away from a purely prescriptive approach to one that increasingly mixes prescription with broad authority.

In this context I will briefly touch on some aspects of the Ontario situation that have importance for the regional dimension of local government. The first of these is the question of the geographic growth of municipal governments through the annexation of adjacent territory. In Ontario, a municipality, usually a city may, propose an annexation of territory. A negotiation with the affected neighbours ensues. If this is unsuccessful the proposing jurisdiction may appeal to the Ontario Municipal Board who have the authority to make binding orders on the parties. Over most of Ontario's history this is the way in which cities grew their borders.

In more recent decades the reorganization and expansion of municipalities has more often been accomplished by the passage of laws in the Provincial Legislature. The most important of these are the Regional Governments created by law starting with the Regional Municipality of Metropolitan Toronto in the mid 1950's. From then until the mid 1970's regional municipalities were created in all the high growth areas in the Province including all the areas around Toronto and the areas around Ottawa and Hamilton, the second and third biggest cities in the Province. These governments formed a new tier and generally had Councils made up of a mix of people elected first at the lower tier and those directly elected. They covered areas containing as few as three local municipalities to areas with a dozen or more.

Three fundamental reasons for the introduction of these regional bodies are managing growth, providing more equity in public finance, and organizing police services on larger and more effective geographic areas. Rapid urban growth needed the mobilization of significant capital finance and the creation of public service organizations with the technical and professional capacity to manage this growth. Public finance equity meant that these costs could be spread across the tax base of the whole region and not just on those parts experiencing rapid growth. Later, for the same reason, the regional tax base was used to finance local education and the local share of social services.

One more piece of history needs mentioning at this point. During the years of the great depression a substantial number of municipalities in Ontario went bankrupt and to be taken over by the Provincial Government. To ensure that municipalities remain on a sound financial footing new rules were introduced. Municipalities may not run an operating deficit and should one emerge during the year it must be rectified in the following year. In addition, any capital borrowing plan created by a local government must be approved by the Ontario Municipal Board. Municipalities cannot borrow for capital if it would threaten their operating effectiveness. The result of this approach, and similar approaches in other Provinces is that the municipal sector in Canada is in surplus every year on a national accounts basis.

So the historical picture is one of the slow development of effective local governments with the addition of regional bodies in recent decades. Throughout there has been a concern to match local tax and organizational responsibilities to capacity.

- Ontario: Recent initiatives

At this point we will look at some key reforms in Ontario that have been introduced in the past ten years.

In the early nineties Canada, along with most of the world, experienced a deep recession and a prolonged crisis in public finance. A little bit about this and its impact on municipalities will be found below. At this point it is enough to note that it caused a big reduction in public spending and far reaching changes in the organization, financing and responsibilities of all Canada's governments.

In Ontario these reforms focussed on reducing public programmes to those of highest priority (usually called the core activities), on simplifying administration, and on clarifying responsibility. A major dialogue on the municipal part of this was conducted in 1996 by a special body called the 'Who does What' panel. They made far reaching recommendations on the relative responsibilities of the local and provincial governments for the provision of public services and on the financing of these services. Most of their recommendations were accepted and implemented over the course of 1997 and 1998. Service responsibilities were exchanged and the number of activities co-financed was reduced from 16 to six. As a result, with much less overlap, it has become much easier to determine accountability.

Reforms were also undertaken in municipal finance and changes were made to the Municipal Act making it simpler for local government to choose its own method of delivering its services. Included in that were changes that made it much easier for municipalities to do things co-operatively with other municipalities.

With respect to the structure of local government, a major effort was made to reduce the number of municipalities and to improve their efficiency. In the years since 1996 the number of municipalities in Ontario has dropped from over 800 to less than 400. In rural areas this was due in part to changing the financial incentives away from a regime that encouraged the maintenance of many small municipalities to one which encouraged amalgamation and/or co-operation.

In urban settings amalgamations were encouraged, and in the three largest urban areas amalgamation was put in place by law. In Toronto, which was changed first, this involved the winding up of six existing 'lower tier' municipalities and the regional government to create a single new, one tier city. This aspect of municipal reform had at its core an interest in the right scale for managing, the right scale to best control costs, enhanced accountability, and an overall simplification of the system of governance and public service provision.

One final note on reforms from this time period. Recognizing that some activities still needed attention at the scale of large regions a body was created to look at regional transit

provision and structure planning for the City of Toronto and the surrounding urban regions. Called the Greater Toronto Services Board, it was looked at by some as the first step towards a regional government suitable for conditions in Toronto's urban region today. It failed and has been wound up. The election of a new Government in Ontario in 2003 has brought renewed interest in this issue and a new body to look at transportation planning region wide is expected later this year.

Before we turn to Toronto more specifically, two more pieces of context are in order.

- Some recent fiscal history

It is important to lay out a few things about the national and provincial fiscal situation before we turn to Toronto. After the response to the fiscal crisis of the early 1990's discussed above, the national government has been in surplus for the past seven years and has adopted a fiscal stance that will ensure that this continues. As mentioned above the local government sector in Canada is required to operate on a balanced budget basis. In the same period the Provinces have also largely had balanced budgets, although not always. The result of this is that the public sector as a whole has remained in surplus throughout this period and is forecast to remain so for the next few years. There is a strong national consensus that supports this approach and Canada has moved from having the second worst public finances in the G7 to the second best over this period.

To accomplish this, of course, the public sector in Canada has been reduced in size. And in pursuit of simplification, improved accountability, and providing a better platform for reorganizing public services the traditional Canadian reliance on shared cost programmes has been greatly reduced. These reductions have occurred between the national government and the provinces and between the provinces and the bodies they fund including local government. Shared cost programmes arose in part because the national government has stronger sources of revenue than provinces which in turn have more robust revenue sources than local government. In exchange for participation in a national initiative financing would be made available and provinces did the same thing. The result is obvious. With revenue sources less tied to general economic growth, local governments have had trouble with their new more independent responsibilities.

And in common with many public bodies faced with a difficult fiscal situation, capital financing has proved even more of a problem than operating costs.

- A few key public policy issues

So with all that as background here is a short list of public policy issues that surround the new City of Toronto. First there is the question of the finances of Toronto, will they sustain the city in the longer term? Second there is the question of the city in its urban region, what will be needed in the future? Third, will better financed senior levels of government begin to reintroduce shared cost programmes? If they do what areas would they be likely to choose?

The case of Toronto

- Some facts and history

Toronto, founded as the Town of York in 1796 became the City of Toronto in 1834. Until the 1950's the steady growth of the community was accommodated by a series of annexations. In the 50's as we have seen a regional municipality was put in place for Toronto and the suburbs that surrounded it then. In the 70's regional governments were put in place for the rapidly urbanizing areas around Metropolitan Toronto. And next the municipalities in Metro Toronto along with the regional government were amalgamated into a single new City of Toronto.

This new City has a population of about two and one-half million and it sits in a larger urban region that has a population of over five million including the City. The City and its agencies have about 50,000 employees and the city budget, excluding its electricity company is about seven billion dollars Canadian. Since the amalgamation in 1998 we have had three local elections with the last having just been held in November of 2003.

- Current structure and Organization

The City Council is made up of a Mayor elected by universal suffrage and 44 Councilors elected in individual wards. In Ontario we have a 'weak' mayor system. Unlike most cities in the United States, mayors are not the independent head of the civic administration rather they are the head of the council only. As a result, the senior staff of the municipality are not appointed by the mayor alone. Rather, they are appointed by the whole council. Like the British model, they are professional public servants.

Direct responsibilities of the city include social services, parks and recreation, town planning, building permits and inspections, economic development programmes, roads, water and waste water services, fire protection, ambulance services, and tax collection. City agencies handle social housing, transit services, library services, police services and a number of specialized local services such as the zoo. In Ontario public education is the responsibility of a separately elected local board.

Of course it has been an enormous task to bring together the organizations of the seven predecessor local governments. And it has been a huge task to bring together the disparate policies and programmes as well. Six years later the task is not fully complete. Part of this has been due to the scale of the task itself. This is the largest single restructuring ever undertaken in the public sector anywhere in Canada. It has also been slowed by the time it has taken to create a common political culture in the new city. Arguably it has only been with a third election that the political debate and the platforms of the candidates really reflected the scale and issues of the new municipality.

- Current fiscal situation

As mentioned above the annual expenditure of the City of Toronto is about seven billion dollars, excluding the budget of the City's electricity company Toronto Hydro. About 40% of the City's revenue come from the property tax, 35% from user fees, and 25% from the senior levels of government. Most of the user fees are accounted for by Toronto Transit Commission fares and fees for water and waste water services. In fact the TTC has the highest level of user share of costs, and therefore the lowest level of subsidy for operations, of any major transit system in North America or Europe. Water and wastewater services are fully funded by user fees.

The principal sources of revenue for the Federal and Provincial governments are personal income tax, value added taxes, and corporate taxes. These sources grow at or faster than the rate of growth in the economy generally and give these bodies growing revenues without raising tax rates in good times. The same is not true of these local government revenues. Even in good economic times they will grow mostly through higher rates, a hard thing for City Councils to do. The reverse is also true of course. In poor economic times senior levels of government have falling receipts but they have the ability to borrow. So while local revenues decline less in poor economic conditions the rule that they may not have a deficit also constrains them. The reduction in shared cost programmes has reduced the contribution of senior levels of government and exacerbated this problem.

At the moment therefore we have a substantial national debate going on the subject of local finances. It appears as though the most likely outcome will be the reintroduction of the shared cost method but mainly focussed on capital works this time rather than operating costs. This is in part because capital spending has been a major target for reduction locally as cities struggle with operating cost pressures and partly because contributing in this area exposes senior levels of government to less cost pressure later. In addition, cities continue to look for new ways to deliver services that improve the cost effectiveness of their programmes.

- A few key issues today

So, in summary, some of the key issues today for Toronto are; dealing with the fiscal pressures, waiting for the emergence of a new method of dealing with regional issues, completing the work of building a common political culture, consolidated administration, and completing the process of reconsidering the approach they are using for service delivery.

Toronto, a work in progress. What may happen in these three key areas.

- Powers and structure

The national debate on powers for local government continues. While I do not believe that local governments in Canada will ever achieve a formal constitutional status, I do think that the recent trend in municipal reform throughout the country to steadily increase the authority and freedom to act in their own areas of responsibility will continue,

In addition, there is a substantial piece of unfinished business left after the extensive local government restructuring of the past ten years. And that is the need to find a new and effective form of regional institution that suits the needs of the much larger urban regions we have across the country.

- Public finance

As discussed above the current debate on the state of local finance looks like it will lead to a new generation of shared cost programmes mostly in the capital spending areas. Leading candidates for new spending include transit, water and waste water services, housing, and renewal of older infrastructure.

- Organizational Capacity

Even with the passage of six years since the amalgamation in Toronto the process of building a strong common administration is not complete. Nor is the task of creating an organizational capacity to fully deal with the scale of the new city's activities. The time needed to fully implement this level of change is substantial.

Some conclusions

While many things about the municipal systems in Canada and Brazil are very different I think that there are several aspects of the Canadian approach that contain useful lessons or experience for those thinking about the situation in Brazil.

The first is our long experience with Regional Governments. They have proven to be a strong and durable way of dealing with rapid urban growth, the problem of equity in urban regions and a useful vehicle for delivering those services that make more sense at the regional scale.

The second is our long national experience with shared cost programmes that allow for national or provincial standards to apply in every locality and give lower levels of government access to more stable sources of funding.

The third is our substantial experience in restructuring local governments both politically and administratively.

And the fourth is the depth of professional capability in the administrative staffing of local governments.

Some resources

This section includes a few web site addresses and some document references for those who wish to further explore municipal issues in Canada.

Web Sites:

The Ministry of Municipal Affairs for the Province of Ontario

www.mah.gov.on.ca

The City of Toronto

www.toronto.ca

The Canadian Urban Institute

A policy shop and think tank devoted to Canadian urban issues

www.canurb.com

The Federation of Canadian Municipalities

The national association

www.fcm.ca

Canada Mortgage and Housing Corporation

The federal government agency most involved in urban issues. See the research highlights section of their web site.

www.cmhc-schl.gc.ca

Canadian Policy Research Networks: Cities and Communities Research Program

A federal government initiative to improve national research efforts in a number of areas. The one focuses on cities.

www.cprn.org

The Neptis Foundation

This foundation has a focus on planning and development issues in the Toronto region.

www.neptis.org

Publications

While publications on urban issues in Canada are numerous, and references to recent ones can be found on the web sites listed above, here are a couple of useful references to publications as well.

Greater Toronto: the Report of the GTA Task Force: January 1996, Queens Printer for Ontario, 1996

Canada's Urban Strategy: a Vision for the 21st Century, the report of the Prime Minister's Caucus Task Force on Urban Issues.

Governing Metropolitan Toronto: a social and political analysis, 1953-1971, Albert Rose, University of California Press, 1972