

# The Social Union, Executive Power and Social Rights

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*La présence de la récente « Canadian Social Union » est évidente dans les accords intergouvernementaux et les institutions qui ont pris une plus grande place à l'exécutif du gouvernement au détriment des lois votées. Ces arrangements ont d'importantes implications sur la reconnaissance de la démocratie avec des retombées sur l'accès des femmes et autres groupes qui désirent l'égalité dans l'élaboration des politiques canadiennes. Cet article nous donne un aperçu de cette union et identifie quelques uns des défis majeurs posés aux organismes qui souhaitent l'égalité.*

“Canadian Social Union” has a nice ring to it. The phrase brings to mind social citizenship and the idea of bonds among members of society strengthened through state policy. Social rights would be the glue binding members of society to one another, as participants in a community sharing entitlements to levels of social security by virtue of their membership in society. Indeed, Harvey Lazar has written that

the social union is the idea that Canadians have similar social rights and obligations of citizenship, wherever in Canada they may live; and the instruments of the social union are the constitutional provisions, federal government mechanisms (such as the ability to tax, spend, and regulate) and intergovernmental arrangements (such as federal-provincial and interprovincial agreements, including intergovernmental transfers) that breathe life into this idea. (107)

What this characterization ignores is that the birth of the new Social Union coincided with stripping poor Canadians of social rights with the elimination of the Canada Assistance Plan (CAP). The new Canadian Social Union is not primarily about relations of individuals to society, it is centrally about relations among governments. For the most part, social rights have been collateral

damage in the larger game of intergovernmental relations. More precisely, the Social Union is not about strengthening the social contract, but about managing social conflicts in Canada through contract-like arrangements or quasi-contracts among governments. The “union” in Social Union is about relations among the executive branch (Cabinet and/or senior bureaucratic) at the federal, provincial, and territorial levels of government.

The new Canadian Social Union is manifest in a network of intergovernmental agreements and institutions that represent a significant expansion of the role of the executive branch of government at the expense of elected legislatures. These arrangements have important implications for democratic accountability, with consequences for the access of women and other equality-seeking groups to the policy making process in Canada. This article provides an overview of the Social Union and identifies some of the central challenges that it poses for equality seeking organizations.

## Definition and Scope

I suggest that a definition that better captures the essential features of the new Social Union than that of Lazar is this:

The Social Union is a network of intergovernmental agreements concluded between representatives of the executive branch at the federal and provincial/territorial levels, along with related institutions and procedures, that governs the transfer of resources from the federal to the provincial/territorial governments to help finance certain social programs delivered by the provinces/territories.

There are a number of points of clarification that need to be made about this definition. The first is that the term “Social Union” as used by governments today only covers

some social programs; it is not generally used to include housing, pensions, unemployment insurance, or workers' compensation. Although most people would consider such programs an integral part of a social union, they differ from the Social Union programs in the ways they are financed. The Social Union encompasses those programs which either now or in the past were cost-shared by the federal and provincial governments. The programs associated with the Social Union are the children's benefits and services funded until 1996 under the Canada Assistance Plan, vocational training and "employability" programs for people with disabilities, and health insurance and health care services.<sup>1</sup>

A second point to note about the definition is that the Social Union is fundamentally a regime to govern the federal spending power in situations involving a federal contribution to provincial social programs. The federal spending power is the capacity of the federal Parliament to transfer or lend its funds to any government or institution or individual it chooses, for any purpose it chooses, and to "attach to any grant or loan any conditions it chooses, including conditions it could not directly legislate" (Hogg 166). It takes two forms: transfers to other governments to help fund their programs, and direct transfers to individuals and organizations. Examples of the first are the federal contribution to medicare and health care services and to provincial social assistance programs, and of the second, the former Family Allowance and the current Child Tax Benefit. (Specific constitutional amendments made unemployment insurance an exclusive federal power and pensions, an area of joint jurisdiction). The spending power became the instrument through which the federal government provided leadership in the construction of the post war welfare state after it failed to get provincial agreement to a realignment of taxation and social program powers.<sup>2</sup> The existence of the spending power has been upheld by the Courts. However, it has not been accepted as legitimate by Quebec governments irrespective of their political orientation because the assignment to the provinces of exclusive jurisdiction over social welfare is considered central to the original constitutional arrangement to protect the distinctive social institutions of the French Canadian national minority. The federal cuts in successive budgets, most drastically that of 1995, resulted in other provinces temporarily lining up with the Quebec position, although more as a tactic to leverage more money from the federal government than as a matter of principle.

While there tends to be rhetoric about ending duplication and agreeing on priorities, the Social Union is only about common standards to the extent that the federal government has handed over responsibility for the establishment of standards to an intergovernmental process. Negotiations at meetings of First Ministers, Ministers responsible for social services, or Ministers of Health focus on the objectives of the federal social transfers, not on

harmonizing standards and programs across jurisdictions. Because the objectives are not enforceable the public announcements at the end of federal-provincial/territorial meetings amount to little more than public relations exercises. The Social Union agreements differ significantly from the other umbrella intergovernmental agreements concluded in the areas of trade and environmental policy, which do focus on the harmonization of government standards. In contrast to the 1994 Agreement on International Trade and the 1998 Canada-Wide Accord on Environmental Harmonization, the Social Union agreements are centrally about money not about regulation. In these areas, business lobbied hard for harmonization across jurisdictions to lessen the regulatory burden of corporations, as they continue to do in their campaign for one national regulatory body for the securities industry (stock markets). When it comes to social welfare programs, business organizations and neo-liberal politicians argue that they are inherently local and private and therefore appropriately the responsibility of the provinces. Alternatively, the argument is that competition among provinces will lead to innovation—innovation apparently not wanted in stock market regulation.

A final point about the definition is that the agreements are between the executive branch (Cabinet) of government at the federal and provincial levels. In the past, intergovernmental agreements were often used as instruments to facilitate the implementation of provisions in federal legislation governing the transfer to the provinces. These agreements were bilateral agreements, between the federal government and a province. What is new in the Social Union is that the intergovernmental agreements are multilateral, involving nine or ten of the provinces and the territories, and the purposes of the transfer are set out in the agreement rather than in the federal statute. The Social Union exists in the space between governments that political scientists describe as "executive federalism." The term refers to the process of decision-making that takes place through relations among the political and administrative representatives of the executive branch of government, which means the Cabinet and senior bureaucrats at the two levels of government. The expansion of the sphere of executive federalism has important implications for Canadian democracy because in our system of government the executive branch is accountable to the people through the legislature.

### **Social Union Agreements and Institutions**

The new Social Union rests on a set of multilateral political agreements that involve the federal and all the provincial/territorial governments with the exception in most cases of the government of Quebec. At the present time, these agreements cover the areas of children's benefits and services, labour market programs for people with disabilities, and health care. With the exception of the

National Child Benefit (NCB),<sup>3</sup> the agreements are in written form and variously described as a communique, accord, framework or an exchange of letters. Although the agreements are often couched in the language of joint decision-making around policy priorities for investments by all governments, the money under discussion comes from the federal treasury. These accords are fundamentally about the mutual commitments of governments related to the expenditure of federal funds on social programs. In most cases, the federal funds take the form of a transfer to the provinces, although this is not the

ments. The accountability methodology centres on direct reporting by the executive branch to the public using performance or outcomes measures developed, where appropriate, with the assistance of experts. SUFA envisages the development of mechanisms for avoiding and resolving disputes among governments and outlines some of the operating principles and procedures that should be embodied in such mechanisms. It also sketches out a role for an executive-federalist political body, referred to as the Ministerial Council, to oversee the implementation of the agreement. The functions of this Council, which include

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situation with respect to the National Child Benefit.<sup>4</sup> In the area of disabilities, the multilateral agreement provides the framework for the negotiation of bilateral agreements between the federal government and each province/territory. One of the agreements, the Social Union Framework Agreement (SUFA), which was agreed to in February 1999, is presented as an umbrella agreement, providing the framework for the Social Union as a whole. However, it was negotiated after the initial agreements on children's benefits and disabilities and its relationship to these and subsequent agreements is more political than direct.

SUFA is an umbrella in the sense of providing political cover for the exercise of the federal spending power on social programs. Under the Agreement, the Prime Minister accepts certain limitations on this power in exchange for public recognition by the First Ministers of all the provinces/territories except Quebec of the legitimacy of the federal spending power, including when exercised through conditional transfers. Specifically, the Prime Minister agreed not to introduce any new Canada-wide block-funded or cost-shared initiatives without first obtaining the agreement of the majority of the provinces. He further accepted a form of "opting out with compensation" in agreeing that a provincial/territorial government with programs in place that fulfil the agreed objectives could reinvest the money in the same or a related priority area. With respect to the exercise of the federal spending power in the form of transfers made directly to individuals or organizations, he agreed only to provide at least three months notice to the provinces/territories and to offer to consult with them to identify potential duplication and alternative approaches.

SUFA is also a framework in that it endorses formally a new approach to accountability and to federal-provincial relations that is reflected in the other Social Union agree-

supporting sector Ministers by collecting information and receiving reports from jurisdictions on progress in implementing the agreement, presume an administrative secretariat. Quebec is not a party to the Social Union Framework Agreement or, indeed, to any Social Union agreements outside the area of health care.<sup>5</sup>

The agreements that underpin the new Social Union in the area of children's benefits and services are the:

- National Child Benefit (NCB) Governance and Accountability Framework (March 12, 1998).
- Communique on Early Childhood Development (September 11, 2000).
- Multilateral Framework on Early Learning and Care (March 13, 2003).

On November 2, 2004, the Federal-Provincial-Territorial Ministers Responsible for Social Services (except Quebec) announced that they had agreed upon shared principles to guide the development of a new national system of early learning and childcare and would meet again early in 2005 to finalize their agreement.

The multilateral agreements on programs for people with disabilities are:

- Multilateral Framework on Employability Assistance for People with Disabilities (Sept. 23, 1997).
- Multilateral Framework for Labour Market Agreements for Persons with Disabilities (in effect April 1, 2004).

In the case of the disabilities Framework, the 2004 Framework supercedes the 1997 one. As indicated above, the disabilities agreements govern bilateral agreements negotiated with the provinces. The health care agreements are:

- Communique on Health (September 11, 2000).
- Agreement on a Dispute Avoidance and Resolution process around the *Canada Health Act* (letter from Premier Ralph Klein to Prime Minister Jean Chretien April 24, 2002).
- Health Care Renewal Accord (February, 2003).
- A Ten-Year Plan to Strengthen Health Care (September 16, 2004).

Although there are important differences among them, the various agreements seem to have been written accord-

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ing to a template for the major elements. They all make some reference to a shared vision among governments, set out principles and objectives of the agreement, identify the funding priorities, provide for an accountability framework that relies heavily on public reporting, and mentions the importance of consulting stakeholders. Several refer to a “problem solving” or “dispute avoidance and resolutions process.” The 2003 Health Renewal Accord sets out a plan of action that builds on the 2000 Communique on Health and the 2004 agreement claims to be building on the 2003 Accord. Of the agreements listed above, Quebec has associated itself only with the health agreements. All the others include a footnote or other disclaimer noting Quebec’s non participation. The one for the 2000 Communique on Early Childhood Development reads as follows:

While sharing the same concerns on early childhood development, Quebec does not adhere to the present federal-provincial-territorial document because sections of it infringe on its constitutional jurisdiction on social matters. Quebec intends to preserve its sole responsibility for developing, planning, managing and delivering early childhood development programs. Consequently, Quebec expects to receive its share of any additional federal funding for early childhood development programs without new conditions.

In the September 2004 health agreement, Quebec bumped its status up from a footnote to a full-fledged statement on “Asymmetrical Federalism that Respects Quebec’s Jurisdiction,” released on September 15, 2004. All the agreements (with the exception of the very specific letter on the health disputes resolution process) have in

common that they coincide with the announcement of the expenditure of money by the federal government.

The institutional infrastructure for the Social Union is evolving and its final shape is not at all certain. The clearest statement of the structure as originally envisaged is found in the 1998 NCB Governance and Accountability Framework. Here, the structure took the shape of a three-level pyramid: at the top was to be a coordinating body consisting of the Ministers responsible for social services; this sat on top of a second level consisting of the Federal/Provincial/Territorial Deputy Ministers responsible for social services that was to be delegated operational responsibility; and at the bottom of the pyramid and holding the rest of the structure up was to be a Federal/Provincial/territorial Working Group of Officials. Essentially, this structure provided a body with political responsibility supported by a secretariat. By the time of the Social Union Framework Agreement, almost a year later, the Ministerial body is referred to as the Ministerial Council and the description of its mandate seems to roll together the political and administrative responsibilities. Its role is to “support sector Ministers by collecting information on effective ways of implementing the agreement and avoiding disputes and receiving reports from jurisdictions on progress on commitments under the Social Union Framework Agreement.”<sup>6</sup> More recently, the coordinating body seems to be meetings of First Ministers, who assume overall strategic responsibility, with meetings of the federal/provincial/territorial Ministers responsible for health or social services playing a secondary and implementing role. The area where the intergovernmental institutions are most developed is health, which has two parallel health councils, one for Quebec and one for the rest of the country (minus Alberta, which has not agreed to participate), in addition to an agreed upon intergovernmental disputes resolution procedure.

### **Origins and Influences**

When trying to trace the evolution of the Social Union, one often has the impression that the First Ministers are making things up as they go along, perhaps seeing how much they can get away with before someone notices their expanding powers. At the same time, it is possible to identify the very specific political exigencies behind the Social Union and the international relations model that inspired it.

The origins of the new Social Union lie in the 1995 federal budget. That budget marked the final burial of the federal government’s commitment to maintaining high levels of employment and its replacement by an “employability” agenda, which places responsibility on the individual for his/her lack of the skills and attitudes that allegedly lead to employment. Implementing this agenda required creating insecurity for those at the bottom end of the labour market in order to create greater competition

among workers. This was achieved by removing the federal conditions in the Canada Assistance Plan which guaranteed to all residents of Canada the right to an adequate income based on need and prohibited provinces from making receipt of social assistance dependent on participation in work activity projects. The budget paved the way for provinces to receive federal funding for workfare projects. In anticipation of the public outcry against the removal of federal conditions, the budget also heralded a new era of "flexible federalism" in which the federal government would sit down with the provinces as equals to work out a new framework for social reform. In place of what then Finance Minister Paul Martin described as the "unnecessary strings" and "inflexible rules" attached to the existing social transfers, the Minister of Human Resources Development was to "invite representatives of all the provinces to consult and work together to develop, through mutual consent, a set of shared principles and objectives . . . that could underlie the Canada Health and Social Transfer" for all programs except health which continued to be covered by the *Canada Health Act*.<sup>7</sup>

The near federalist loss in the October 1995 Quebec referendum on sovereignty greatly accelerated the process launched by the 1995 federal budget. Panicked by the outcome, the immediate response of the Liberal government of Jean Chretien was to introduce into the House of Commons measures reminiscent of provisions in the failed Meech Lake Accord and Charlottetown Agreement, including a resolution recognizing Quebec as a distinct society and the provincialization of training and housing in the February 1996 Budget. The federal government then set out to prove to Quebecers that Canadian federalism was capable of change. The provincial governments of English Canada recognized the situation as one in which they had leverage to win financial concessions from the federal government. Initially allying themselves with Quebec, they broke with the Parti Quebecois government to endorse the Social Union Framework Agreement and its acceptance of the legitimacy of the federal spending power. The Social Union evolved as a flexible framework for managing the social conflicts over neoliberal approaches to social policy renewal and over the widespread opposition in Quebec to the federal role in social programs.

The inspiration for the institutions of the new Social Union came from international relations in which the primary governing instrument is the treaty among sovereign countries, supported by coordinating and disputes resolution institutions. This model had already been imported into Canadian intergovernmental relations through environmental and trade policy, two areas strongly influenced by international relations. The use of multilateral framework agreements to govern relations among governments within Canada originated in the field of environmental policy in the late 1980s (Tingley). These agreements are intended as an umbrella under which sub

agreements covering particular topics and industrial sectors are negotiated, as well as bilateral agreements among parties to the framework agreement. G. Bruce Doern and Mark Macdonald argue that negotiations around the Canada-U.S. and North American Free Trade Agreements brought officials from the previously separate worlds of international trade and federal-provincial relations together because of the expansion of the trade agenda to cover matters within provincial jurisdiction. The mutual learning that occurred influenced the approach to negotiating domestic intergovernmental agreements as reflected

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in the 1994 Agreement on Internal Trade, which was directed at bringing the regulations governing Canada's internal market into line with our international trade agreements (Doern and MacDonald). The Social Union borrows from the international relations model a reliance on multilateral framework agreements, disputes resolutions through mechanisms established by the parties to the agreements, and institutions to monitor and investigate compliance with the agreement.

The adoption of the international relations approach to intergovernmental relations has important implications for the accountability of the executive to the legislature, which is the main form of democratic accountability in the Canadian system of government. In Canada's international relations, the Prime Minister does not require the approval of Parliament to enter into a treaty with another country, even though that treaty will be considered binding on Canada by other countries. The power the Prime Minister is exercising in this case is known as a prerogative power. This is an ancient form of authority that is the residue of the power that the British Crown once had to act independently of Parliament. In most cases, Parliament has removed the prerogative powers from the executive and, as a result, the only legitimate basis for the executive to act is the authority delegated to it by a statute duly passed by Parliament. However, in the case of treaty-making, Parliament has not removed this as a prerogative power of the executive, although it could do so at any time. A peculiar feature of the treaty-making power, though, is that an international treaty only becomes part of Canadian domestic law, and therefore binding within Canada, when it has been implemented through legislation by whichever level of government has constitutional responsibility for the areas covered by the treaty. In the Social Union negotiations, the First Ministers appear to be

treating intergovernmental agreements as analogous to international treaties. They seem to assume that they have the authority to enter into agreements without any delegation of power through legislation from their respective legislatures, even though intergovernmental agreements governing CAP and earlier social transfers were governed by very specific delegations of power carefully set out in statutes. They are aware that the agreements are only political accords among the executive branch and are not binding unless implemented by legislation. By conducting their relations through political accords rather than

strategy of constitutional reform by non-constitutional means. The SUFA commitment that the federal government will not introduce a new cost shared or conditional transfer without first obtaining the support of a majority of the provinces is a milder version of a proposal that appeared in the initial package of constitutional amendments advanced by the Conservative government of Brian Mulroney at the beginning of the Charlottetown process. The proposal at that time was to subject the federal spending power to approval by seven provinces representing fifty percent of the Canadian population for any new

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through agreements that are subordinate to legislation, the First Ministers are able to escape scrutiny by both their legislatures and the courts. This escape from democratic accountability seems to be one of the prime objectives of the new Social Union.

#### **Implications for Democracy and Social Equality**

During the constitutional debates around the Meech Lake Accord (1987 to 1990) and the Charlottetown Agreement (1991 to 1992), the women's movement brought public attention to the problems of "men in suits meeting behind closed doors" to redesign the Canadian constitution. Public anger at the role of the First Ministers during the Meech experience forced the government of Brian Mulroney to open up the Charlottetown process, resulting in a joint House of Commons and Senate Committee that toured the country to consult the public,<sup>8</sup> a series of constitutional conferences involving members of the public, and a referendum that ultimately rejected the amendments approved by the politicians. The lessons drawn from this experience by the political elites and some academics is that a democratic process of constitutional reform is unworkable and that the old process of "elite accommodation" in which trade-offs are quietly made among a limited group of participants is the route to go. While publicly proclaiming that "the last thing Canadians want to hear about is constitutional change," the elites launched a process of constitutional reform by non-constitutional means (Lazar). This process involved the extension and institutionalization of the very process of executive federalism that the women's movement and much of the public had rejected.

The provision in SUFA limiting the exercise of the federal spending power provides an illustration of the

cost shared or conditional transfers to the provinces (*Shaping Canada's Future Together* 39). This proposal was widely rejected in Canada outside of Quebec. After extensive public consultation and debate, including three constitutional conferences, the Special Joint Committee on a Renewed Canada (the Beaudoin-Dobbie Committee) recommended that the proposal be dropped from the final package, which it was (Special Joint Committee on a Renewed Canada). The SUFA requirement is less onerous than that contained in the original Charlottetown proposals in that it allows the federal government to proceed with the approval of six of the "have not" provinces and without the approval of either Quebec or Ontario. Nonetheless, Prime Minister Chretien agreed to a limitation of the federal spending power without any public debate and without obtaining the approval of Parliament either before or after the negotiations. No Canadian legislature even debated the Social Union Framework Agreement except for the National Assembly of Quebec, which unanimously rejected it. We now have the peculiar situation in Canada where the First Ministers can conclude intergovernmental agreements among themselves, with no legislative involvement, that commit their governments to measures similar in principle to those dropped from consideration before a referendum because they were so unpopular.

The expansion of the executive-federalist arena at the expense of the legislature raises important issues of democratic accountability. It is true, of course, that our legislatures are less effective at representing public opinion and holding Cabinet Ministers accountable than is desirable. This is largely a consequence of Canada's first-past-the-post electoral system that frequently delivers majority governments resting on a minority of the popular vote. Yet, the legislature, through the opposition parties

and often through back bench members of the governing party, provides avenues of access for equality-seeking organizations that do not exist in the executive-federalist arena. Indeed, there are procedures around the budget and estimates process that non-governmental organizations could use more effectively than they do. In contrast, the executive-federalist process is much more closed and access is easiest for the well-resourced elite lobby groups. Furthermore, the legislative process provides the opportunity for public debate on issues. The setting of priorities for social programs through *in camera* meetings of First Ministers and Ministers of Health or Social Services, with no serious accountability to the elected legislatures, removes decisions about the allocation of society's resources from the public arena. The process of intergovernmental institutions recasts fundamental choices around social priorities as technical issues of measuring outcomes. The social rights of citizens that should be central to a social union disappear from discussion in a forum in which debate revolves around the jurisdictional powers of governments. There is little space in the discourse for intervention by groups advocating on behalf of the disadvantaged.

At the centre of the problems of democratic accountability in the new Social Union is the substitution of the intergovernmental agreement for the statute. Legislation duly passed by Parliament at the federal or provincial level is the primary instrument for holding the executive accountable in the Canadian system of government. Statutes set out the limits of the power delegated by the legislature to the executive and are the basis used by both the Auditor General and the Courts to ensure that the actions of the executive conform to the purposes approved by Parliament.<sup>9</sup> Depending on its wording, the statute may also provide the basis for individuals to claim their social rights where these rights are set out as either the purposes of the legislation or conditions attached to the federal social transfer to the provinces. Under the Canada Assistance Plan, the provinces were required to put in place procedures to allow individual applicants for and recipients of social assistance to challenge the decisions of provincial administrators. Much to the surprise of the federal government, the Courts also allowed individuals to use the statutes under CAP to bring a case challenging federal enforcement of the CAP conditions (*Finlay v Canada [Minister of Finance]*). Without a statute limiting executive action to the purposes approved by Parliament, it is impossible for the Auditor General or the Courts to scrutinize executive action or for individuals to challenge it.

Under the Canadian Constitution, the executive requires the approval of Parliament to raise taxes or spend money. It is therefore ultimately necessary for the executive to seek the approval of Parliament for the expenditure commitments it makes to the provinces in securing the intergovernmental agreements. Traditionally, the expenditure of funds was authorized as an integral part of legisla-

tion setting out the purposes of the expenditure, as was the case with the Canada Assistance Plan, or in financial legislation that supported separate legislation setting out the purposes and conditions of a federal social transfer, as is the case with the *Canada Health Act*. Under the Social Union agreements in all areas except health, the only federal legislation is financial. The authorization for the expenditures for the Canada Child Tax Benefit is found in the *Income Tax Act*, which contains no outline of the purposes of the Benefit. The authorization for the \$ 8.3 billion<sup>10</sup> Canada Social Transfer to the provinces for social assistance, children's services and post secondary education is found in the *Federal-Provincial Fiscal Arrangements Act*. It contains only one condition set by the federal government, which is that no period of minimum residence be required or allowed for social assistance. Otherwise, the purposes of the Social Transfer, as set out in the *Fiscal Arrangements Act*, are to finance "social programs in a manner that provides provincial flexibility" and to promote any shared principles and objectives that are developed through the intergovernmental process convened by the Minister of Human Resources Development (s.24.3(1)). The consequence of using financial legislation rather than dedicated social legislation is that the federal budget becomes the primary instrument for social policy and the Department of Finance the chief architect of the Canadian Social Union. The centre of social policy has for some time been the Social Policy Division of the Department of Finance rather than the social development departments. The substitution of the intergovernmental agreement for social policy statutes reinforces its power. The Department of Finance is a central coordinating agency of government that has strong ties with the most powerful sections of Canadian finance capital and is one of the agencies of government least accessible to grassroots organizations representing the socially disadvantaged.

Women's organizations in Canada outside of Quebec have tended to see recent developments in federal-provincial relations through the lens of decentralization and provincialization. The analysis of the Social Union in this article suggests the need to shift the focus a bit. Certainly, there is a decentralizing potential in the institutions and procedures of the Social Union and a right-wing Conservative government led by Stephen Harper would certainly exploit them fully. But it is not at all clear, now that the panics over the Quebec referendum and the budget deficit have subsided, that the federal Liberals favour further decentralization. Rather, a main objective for them appears to be to insulate decision-making around social policy from the influence of those groups with the most to lose from the erosion of social benefits. This is achieved by transferring debates from the legislative to the less accessible executive-federalist arena, and by treating choices around social priorities as technical matters to be solved by developing performance and outcomes measures. Another central objective of the Social Union ap-

proach is to manage the Quebec-Canada relationship through a process of elite accommodation designed to convince Quebecers of the possibility of a flexible and accommodating federalism in the absence of any real change. In order to make advances around social policy, women's organizations and other equality seeking groups will have to challenge the undemocratic expansion of the intergovernmental arena, find ways to build solidarity between organizations in Quebec and the rest of Canada, and reclaim the social union as a project centred on social rights rather than on the powers of governments.

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<sup>1</sup>The Social Union website at [www.socialunion.ca](http://www.socialunion.ca) covers only the programs for children and people with disabilities but the health care was covered under the Social Union Framework Agreement and the subsequent health care accords refer to SUFA.

<sup>2</sup>More recently, the exercise of the federal spending power was a crucial instrument in the deconstruction of the welfare state through cuts to the federal transfer to the provinces. For a discussion of the "negative spending power" see McBride (141).

<sup>3</sup>The federal Speech from the Throne of September 23, 1997, announced that agreement had been reached on a National Child Benefit initiative. There is a written NCB Governance and Accountability Framework, agreed to on March 12, 1998.

<sup>4</sup>In the case of the Child Tax Benefit, the federal transfer to the provinces is indirect. The federal government directly transfers a benefit to low income parents through the tax system and certain provinces deduct a portion of the benefit (the National Child Benefit Supplement) from the welfare cheques of parents on social assistance. The provinces achieve this simply by treating the NCBS as income for purposes of social assistance.

<sup>5</sup>Quebec has only associated itself with the 2000 Health Renewal Accord, which came with significant federal funding for the provinces; the 2003 First Ministers' Accord on Health Care Renewal, when it agreed to adapt the mandate of its existing Council on Health and Welfare to collaborate with the planned Canada Health Council; and with the "Ten Year Plan to Strengthen Health Care" that resulted from the September 13-16, 2004, First Ministers' meeting on health care, at which Quebec released a separate statement on asymmetrical federalism. Both documents are available Online: Canadian Intergovernmental Conference Secretariat. [http://www.scics.gc.ca/confer04\\_e.html#September04](http://www.scics.gc.ca/confer04_e.html#September04) (Accessed September 23, 2004).

<sup>6</sup>Although the full name is not given, the Council is the Federal/Provincial/Territorial Council on Social Policy Renewal created in 1996, which consisted of Ministers at both levels responsible for social services. To make matters

even more confusing, a Provincial/Territorial Council on Social Policy Renewal, first created by the Premiers in August 1995, continued to meet and its role seemed to be to develop a common provincial front in negotiations with the federal government. Provincial/Territorial Council on Social Policy Renewal. *Progress Report to the Premiers No. 6*, August 1-3, 2001.

<sup>7</sup>*Federal-Provincial Fiscal Arrangements Act*, R.S.C. 1985, c. F-8, as amended by S.C. 1995, c 17, s. 13 (3).

<sup>8</sup>This was the Special Joint Committee on a Renewed Canada, popularly known as the Beaudoin-Dobbie Committee after its Chairs.

<sup>9</sup>The Auditor General has criticized the Cabinet for failing to provide Parliament with the information on provincial expenditures of federal health care funds necessary to ensure that the federal money is being spent as intended by Parliament and has raised concerns about the absence of a statutory framework for the social transfers to the provinces under the Social Union Agreements.

<sup>10</sup>This is the 2004-05 figure. Note that this amount represents cash. The federal government also counts as part of its transfer the value of tax points transferred to the provinces in 1977. The current value of these is \$6.5 billion, for a total Canada Social Transfer of \$14,792 billion. The provinces consider this money from tax points, which they now collect from their citizens in provincial taxes, as their own money and do not count it as part of the social transfer.

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