

The Canadian federal structure

Most states of the world are unitary – which means that each has a single government with complete jurisdiction – but all the largest six, except China, are federations. Canada, like the United States, chose a federal structure to provide for common action and to take account of provincial differences. The Fathers of Confederation gave the new provinces of Ontario and Quebec their own provincial governments and also joined them in a larger unit, hoping for peaceful co-existence.

The drafters of the BNA Act paid particular attention to this division of authority. They gave the Federal Government all the powers considered important in the mid-nineteenth century – including defence, banking, taxation and trade regulation – and all other powers not specifically granted to the provinces. The provinces retained control of religious, linguistic and cultural interests and were given powers over what then seemed the relatively minor matters of education, property and civil rights.

In the United States, the general drift since the Civil War has been towards greater federal power, but in Canada the original intent to give all powers for the maintenance

of "peace, order and good government" to the Federal Government has been altered by later judicial decisions. The courts have often ruled in favour of increasing provincial powers, and some specific areas of control granted to the provinces in the BNA Act – such as medical care, social welfare and education – have become more important. In consequence, provincial expenditures have increased dramatically and, since provincial governments may levy only direct taxes, they, like the American states, have had to rely on funds from the federal government, which in Canada has the broader authority to exercise "any means of taxation". Ottawa has entered many tax-sharing and shared-cost agreements with the provincial governments. These *ad hoc* arrangements and the bargaining techniques by which they are achieved have come to be called "co-operative federalism". They are often difficult to administer and may require complicated agreements that materialize only after prolonged annual negotiations.