

In this same period, intergovernmental cooperation has been achieved on other fronts. The Agreement on Internal Trade (AIT), for instance, has as its object the removal of non-tariff barriers to interprovincial trade. This entails both "negative integration" (prohibiting certain practices) and "positive integration" (requiring certain steps be taken to harmonize provincial laws and standards). Criticism has been leveled at the non-binding character of the AIT, and the sluggish movement toward full implementation, but it does represent an innovative mechanism for achieving uniformity in provincial policy areas. The 1999 Social Union framework agreement suggests that cooperation also can be secured around social policy goals. But the skeletal nature of the agreement, together with the circumstances in which it was completed, suggest that it may be a lesser commitment than the one made by First Ministers to the economic union. I return to the subject of the Social Union agreement below.

Federal or Provincial?

Provinces are as fully capable of respecting international human rights norms as the federal government, and as fully culpable for having ignored those norms as has the federal government. The province of Saskatchewan, for instance, was the first to enter the human rights field with the Saskatchewan Human Rights Code. The Quebec Charter of Human Rights and Freedoms perhaps led the way in rights-protections by being the first Canadian jurisdiction to include sexual orientation and social condition as prohibited grounds of discrimination, and to include some protection for social rights. Provincial human rights codes are key elements in a regime for the protection and promotion of human rights. Provincial human rights regimes catch those day-to-day acts of discrimination in the marketplace -- discriminatory treatment in regard to services, public facilities, employment, and housing, for instance. Though some degree of variation in these regimes continues to exist, diversity is giving way to uniformity as a result of the Canadian Charter of Human Rights and Freedoms.

In contrast to this provincial activity, the federal government was the last authority to establish a human rights agency. The Act covers the federal government and federally-regulated businesses like banks, railways and telecommunications (Greschner and Prescott 1999: 6).

If provinces have been key in the development of human rights in Canada, they also have been central to the development of new social policy initiatives. The reign of the Co-operative Commonwealth Federation (forerunner to the New Democratic Party) in Saskatchewan, beginning in 1944, is the oft-cited example. This one government enacted occupational health and safety legislation, minimum wage laws, automobile insurance, human rights legislation, and universal health insurance. But it also is the case that, but for health care in Saskatchewan, the federal government "was the initiator of virtually every new social measure, from the first old age pensions in 1927 through family allowances in 1945 and to major programs put in place during the 1960s and early 1970s," (Kroeger 1995: 3). For this reason, some commentators have been unwilling to see the federal government give up its spending power, or place any limitations on its availability (Monahan 1998). Albert Breton goes so far as to argue that cooperative federalism itself is an unreasonable limitation on federal constitutional power, an attempt to deny the fact of federalism altogether (Breton 1989: 466).

International Treaty-Making Authority