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CONSTITUTIONAL DILEMMA AND SOCIAL WELFARE POLICY IN CANADA

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ABSTRACT

The Canadian Constitution is usually interpreted as giving the provinces primary jurisdiction over social welfare. However, the federal government utilizing other powers provided in the constitution has expanded its role in legitimating the social order by promoting social integration and providing the disadvantaged groups with minimum social security. Thus social welfare is administered by both levels of government. Yet the fact that no mandatory obligations are imposed on either level of government has led to the development of social welfare policy in Canada in a fashion that resembles a crazy patchwork quilt. This is shown in a review of the post-World War II federal-provincial relations in both income security programs, and personal and community social services.

The review also reveals the present situation as one of unresolved contradictions of split responsibilities. The provinces by and large attempt to restrict the federal role in social welfare to that of cost-sharing with minimum policy input. The federal government, on the other hand, is attempting to reduce its money transfers to the provinces and escape from financial responsibility for many programs.

Finally, an examination of the new Constitution reveals the lack of guarantee of social and economic rights for Canadians. The virtual silence over social policies in the recent constitutional debate is not only lamentable but will eventually prove detrimental to the development of Canada as a nation.

INTRODUCTION: BASIC CONTRADICTIONS

The official goal of any welfare state is egalitarianism or at least a reduction in social inequality. Wilensky (1975), after examining the social welfare programs of 22 countries, concludes that the net short-term economic effect of the welfare state is egalitarian, while he holds off speculations about the non-economic or the long-term effects. Yet it is a well-known fact that in the last 30 years the distribution of money income in Canada has not changed significantly (Gillespie, 1976; Caskie, 1979; Ross, 1980). The share of the lowest quintile of income earners has remained about 4% while that of the highest quintile around 42%.

Studies into the nature, role and processes of the welfare state, both in North America and Western Europe, have revealed serious dilemmas in the welfare state such that the express goal of social equality is thwarted. The basic contradiction in social welfare is "between the protective, standard-raising, life-enhancing functions of social security and its role in disciplining the labour force, more specifically as a mechanism for compelling people to adapt to low or intermittent wages" (Guest, 1980: 168), and generally to a social position of dependency and subordination (see Piven & Cloward, 1971; Canadian Civil Liberties Association, 1975; Galper, 1975; Mayo, 1975; Loney, 1977). The overall consequence for the welfare beneficiaries is one of social control.

A second and related dilemma is that while the poor have benefitted from the payouts of social welfare programs, so have the high-income and advantaged groups. In fact the rich are likely to benefit more as they tend to have greater utilization of such in-kind government transfers as education and health services (Badgley & Charles, 1978). Moreover, the financing of social insurance programs (i.e. unemployment insurance, Canada/Quebec Pension Plan and health insurance) is regressive. This is not to mention the "fiscal" welfare system and the "occupational" welfare system which are predominantly enjoyed by the high-income groups and which are typically not perceived or treated as part of social security.

The purpose of this paper is not to elaborate on all the diverse manifestations and consequences of these dilemmas in the Canadian welfare state. Rather, the focus is on the constitutional dilemma in social welfare policy which compounds the difficulties in reducing social inequality in Canada.

THE BRITISH NORTH AMERICA ACT

The British North America Act, the Constitution by which Canada was founded as a nation-state in 1867, was interpreted as giving the provinces primary jurisdiction over social welfare. According to Section 92 of the Act, the legislature in each province could exclusively make laws in relation to such matters as

- public reformatory (subsection 6)
- hospitals, asylums, charities and eleemosynary institutions (subsection 7);
- municipal institutions in the province (subsection 8);
- property and civil rights (subsection 13);
- matters of a local and private nature (subsection 16).

Insofar as the federal government has more revenue at its disposal than the provincial governments, it has from time to time sought to expand its role in legitimating the social order by promoting social justice and integration, and by providing the disadvantaged groups with minimum social security (Stevenson, 1977). Through the adoption of two constitutional amendments, the federal government has increased its powers in the area of social welfare policy. The amendment in 1940 gave the Parliament of Canada exclusive legislative authority in unemployment

insurance (Section 91 (2A) of the B.N.A. Act), and the 1951 amendment gave it authority to make laws in relation to old age pensions and supplementary benefits, including survivor's and disability benefits (Section 94A).

The federal government has not hesitated to make use of other powers provided in the constitution either. Thus in 1945, it introduced Family Allowances without constitutional amendment, on the ground that it had the right to make payments directly to individuals. Moreover, it has established extensive employment-related services on the basis of its powers over the economy and the unemployment insurance; welfare services for veterans on the basis of its responsibility for the military service and the militia; social welfare for Native Peoples because of its responsibility for the well-being of these peoples; and services to immigrants and "citizenship" services because of its responsibility to aliens and naturalization (Armitage, 1975: 61). Finally, the federal government has relied on conditional grants to the provinces to extend its influence in social policies. Medicare, public housing, higher education and Canada Assistance Plan are the most important examples of past or ongoing conditional grants.

Thus we see that power for social welfare is divided between the two levels of government: federal and provincial. The virtual impossibility of matching division of sources of revenue with the division of government powers has led to serious constitutional controversies (Birch, 1955). But it would be well to recall also another observation made by Elizabeth Wallace in 1950:

The Act did not impose any obligations to provide welfare services upon either the Dominion or the provinces, but simply allocated, with less precision than its framers had hoped to achieve, the various spheres of jurisdiction, any subsequent action being permissive, not mandatory (Wallace, 1950: 384, emphasis added).

The fact that no mandatory obligations were imposed on either level of government has led to the development of social welfare policy in Canada in a fashion that resembles a crazy patchwork quilt. Consequently the rights and needs of Canadians are compromised while "the federal government (wavers) between leading the nation and bargaining piecemeal with the provinces" (Bell & Tepperman, 1979: 181).

POST-WORLD WAR II DEVELOPMENT

The post-World War II development of income security programs and social services must be seen within the context of federal-provincial relations because the Canadian state actually comprises eleven governments: one federal and ten provincial. The total Canadian social welfare institution can best be viewed as an outcome of a peculiar federal system with a weak and unpopular central government. The years between 1945 and 1962 are known as the era of "joint federalism" during with the federal government and provincial governments, utilizing the conditional cost-sharing program device, jointly established no fewer than 56 programs (Guest,

1980). Particularly in the area of income security, the federal government's attempts at greater political centralization led to the creation of direct cash transfer payments from the federal government to individual Canadians (Banting, 1982). This move towards greater federal involvement and, in fact, leadership in social welfare was not simply due to the financial inability of the provinces to meet increasing demands. The main reasons that the federal government assumed more powers in social welfare, while acknowledging provincial paramountcy in the area, were:

1. Only the central government could effect a national income redistribution.
2. The federal government wishes to be seen by citizens as conferring tangible cash benefits such as Family Allowances and Old Age Security.
3. Only the federal government could ensure some common standard such that there would be a measure of equity in social security provision from province to province.
4. The welfare programs must be portable so as not to impede the movement of Canadians across the country.
5. The federal government saw in the exercise of welfare powers the opportunity of stabilizing the economy by affecting Canadians' total demand for goods and services (Armitage, 1975).

The last consideration, that is, federal influence in national economic policy, was especially important in the expansion of public assistance. According to Drover and Gartner (1980), the developments during the fifties and sixties of growing domination of the Canadian economy by the foreign-based multinational corporations, the creation of a branch-plant economy and the preponderant reliance on the resource sector relative to the manufacturing sector, combined to weaken the power and control of the federal government over economic decisions. As the federal government lost its grip over the economy, it turned steadily to the legitimation function of introducing social welfare programs to promote social harmony and of assuring an acceptable standard of living to the poor. This legitimation function was all the more urgent in the face of mounting militancy among Quebec nationalists that threatened the country's unity itself. The legitimation function was carried out in the name of the war on poverty (Thatcher, 1982).

Meanwhile, since the end of WW II, there was rapid development of the economies of the larger provinces, especially in the resource industries which are under provincial jurisdiction. This not only brought more revenues from resource royalties to the provinces but led to the expansion of provincial government institutions and structures as demands for their services increased. Provincial government spending likewise increased, from 6.4% of the Gross National product in 1955 to 16% in 1974. While sizeable amounts of the increase were due to health and welfare expenditures, most of the additional costs were related to the development of the physical infrastructure and education as required by economic growth. Increasing provincial spending spawned frictions between the provinces and Ottawa, with increasing pressures from the larger provinces for fiscal decentralization and more "tax points" (Stevenson, 1977).

By means of conditional transfers the federal government was able to persuade the provinces to institute medicare and various social programs. However, the federal government's participation in policy decisions on social welfare was seen as an invasion of provincial jurisdiction. The provinces opposed the federal intervention for a number of reasons. People in different regions had different needs and the provincial government was in the best position to assess these needs and make provisions for them. Moreover, different provinces had set precedents introducing new programs, for example, medicare and the Family Income Plan in Saskatchewan; they did not have to wait for the federal initiative. The provinces also argued that divided jurisdiction over social welfare only added to the questions of responsibility and accountability. Finally, a high profile of the federal government in social welfare would necessarily mean more transfers from the richer provinces to the poorer ones. This was not always looked upon favourably by the richer provinces of Ontario, British Columbia and Alberta (Armitage, 1975).

Between 1967 and 1977 there was a series of federal-provincial negotiations over revenue collection, financial contributions and distribution of monies and services. The issues have by no means been resolved, but the entire question of welfare policy has receded from the limelight in federal-provincial relations, pre-empted by the question of constitutional division of power over natural resources and severe economic problems in the early 1980's. There was, however, agreement on the Established Programs Financing (EPF) arrangement for funding of health and post-secondary education programs by the end of the Seventies. Those programs would no longer be cost-shared. The federal government gave up a share of the income tax to the provinces, thus allowing the provinces a free hand in the operation of the program.

In the area of income security and other social services, no clear-cut resolution was attained, as will be seen in the following two sections.

1. Income Security Programs

The Canada Assistance Plan of 1966 (CAP) consolidated previous federal-provincial, shared-cost programs including unemployment assistance, old age assistance, blind and disabled persons assistance, child welfare and administrative costs. Through the Plan, the federal government entered into agreements with the provinces to reimburse 50% of the costs incurred in provincial or municipal assistance to the needy. There would be no upper limit on the federal contribution provided that (a) there would be a needs-test; (b) residence would not be a condition of benefit, and (c) there would be a procedure for appeals by recipients against administrative decisions (Armitage, 1975; Djao, 1979; Guest, 1980).

The administration of social assistance is left to the provinces, sometimes in cooperation with the municipalities. The Canada Assistance Plan contains two important features. First, assistance is not only intended to assist persons in need but also those who are likely to be in need. The latter category is interpreted to include individuals and families of the wage-earning poor who could be given public assistance to supplement their income from employment. However, in

practice assistance to the wage-earning poor has been insignificant. Second, the Plan provides services to help people, mainly social assistance recipients, find and maintain employment. The services include training, counselling, homemaker and child care services.

The rates of assistance and criteria for eligibility are set by each province. The differences among the provinces are determined not so much by differential living costs as by differential ability or willingness to spend on the poor (Armitage, 1975). Thus, the definition of a recipient's needs and the way these needs are met are somewhat arbitrary. The rates established by all the provinces are below the poverty line, whether one uses the poverty line provided by Statistics Canada or the Canadian Council on Social Development or the Special Senate Committee on Poverty. Nevertheless, from 1960 to 1975 the growth of public assistance in Canada was phenomenal: the number of persons assisted increased by 278% while expenditures on constant dollars increased by 840% (compared to 254% and 246% in the U.S. respectively) (Drover & Gartner, 1980).

Critics point out that as the Plan stands now it is ineffectual in combating poverty. The Special Senate Committee on Poverty recommended the guaranteed annual income (GAI) approach instead.

In 1970, John Munro, the minister of National Health and Welfare published Income Security for Canadians. According to this White Paper, while demogrants (ie: universal programs), social insurance and social assistance were to be retained as instruments of income security policy, the main thrust of the government's proposed policy for the coming years was "developing the guaranteed income technique as a major anti-poverty policy" (Canada Health & Welfare, 1970: 2).

The guaranteed annual income is not a special method of income security. Rather it represents a social goal. In public discussion so far, the basic components of GAI include an income support program to assist those not in the labour force and an income supplement program to assist the wage-earning poor. These programs would be administered according to demonstrated need and would have built-in incentives to encourage the recipients to earn additional income. GAI would cover many more of the wage-earning poor than presently covered by the CAP. Assistance received in this way would be less stigmatizing, as a simpler income test for eligibility can be integrated within the tax system. However, the differential reduction rates in the two-tier program would reaffirm the "less eligibility" principle, ie: "total financial rewards to those who work would always exceed benefits to those who do not work" (Guest, 1980: 193).

There was a great deal of interest in the GAI in the early seventies although only Manitoba took up the federal offer of assuming 75% of the costs in launching a GAI experiment. Meanwhile, in 1973, the new minister of National Health and Welfare, Marc Lalonde, initiated a comprehensive social security review with his Orange Paper, Working Paper on Social Security in Canada. The Mincome Manitoba experiment staff worked closely with the Federal-Provincial Working Party on Income

Maintenance which was one of the three major components of the social security review. (The other two were, Working Parties on Employment, and Social and Employment Services.)

In 1977, as a result of the social security review, the federal government tried to persuade the provinces to accept some form of GAI. There was some urgency on the part of the federal authorities in the light of the new constitutional crisis posed by the election of the separatist party, Parti Quebecois, in 1976. However, the interest in GAI had waned. The provinces, led by Ontario, opposed the scheme. Inflationary pressures following the 1974 oil pricing crisis, increasing unemployment, and a general economic downturn did not augur well for a new thrust in income security endeavours. The GAI was shelved. However, the technical reports of the Mincome Manitoba experiment published in 1979 provide valuable data on a number of technical and policy questions, such as the integration of the GAI with the tax system and the existing social insurance programs. Should some form of nation-wide GAI be reconsidered at a later date to replace the stigma-conferring social assistance plan, useful information and experience could be gleaned from the Mincome Manitoba reports (Splane, 1980).

There were changes in other income security programs in the seventies. In 1974, the amount of Family Allowances was increased. While Ottawa continues to provide all the funds for Family Allowances, the provinces could vary payments according to the age and/or number of children in the family. This change was an attempt at reaching some measure of jurisdictional harmony between the federal and provincial governments.

As a result of the social security review, the benefits of both Old Age Security (OAS) and Old Age Security Guaranteed Income Supplement (OAS-GIS) were increased and indexed to the consumer price index on a quarterly basis. On the other hand, in the late 1970's, unemployment insurance regulations were tightened to limit eligibility. Economic projects such as Opportunities for Youth and the Company of Young Canadians were abolished, and the Local Initiatives Programs were curtailed. These changes all took place in the income security field traditionally handled exclusively by the federal government and were instituted as part of the budgetary restraint policy. But this decreased responsibility for welfare programs also took place at a time when the provinces were asserting their jurisdictional rights and prerogatives with renewed vigour. As will be seen in the next section, personal and community social services became an even greater casualty in government cutbacks and increasing tensions in federal-provincial relations.

II. Personal and Community Social Services

Most of the personal and community social services established in the first half of the century were operated by philanthropic organizations in the private, voluntary sector. Until 1966, the provinces alone were responsible for state-provided social services, except for vocational rehabilitation services for the disabled for which there was federal cost-sharing since 1952 (Guest, 1980). Through the cost-sharing arrangements agreed upon in the Canada Assistance Plan

(1966), the federal government began to exert influence on the development of social welfare services across the country. The broad objectives of the CAP social services were "the lessening, removal or prevention of the causes and effects of poverty, child neglect or dependence on public assistance" (quoted in Armitage, 1975: 149). Services include casework, counselling, homemaker and day care services, and community development. It should be noted that preventive services are part of the express purpose of the Plan, although in practice, access to services is limited to those who are already deemed to be "in need", that is, social assistance recipients. Thus, the social services provided by the provincial departments of social welfare are labelled, and they, along with social assistance payments, are stigma-conferring.

Although the provision for the federal government to pay 50% of the costs of the welfare services has been instrumental or even decisive in establishing many services badly needed in some communities, there has also been resentment by the provinces that the priorities are often set by the central government without due regard for the particular needs and conditions in the different regions.

By the early 1970's, inadequacy in both quality and quantity of publicly provided social services became increasingly apparent (Canada Special Senate Committee on Poverty, 1971; Quebec Commission of Inquiry on Health and Social Welfare, 1971). The thinking on social services in Marc Lalonde's Orange Paper (1973), however, did not indicate any significant departure from the orientation already embodied in the CAP. The paper focused narrowly on those services related to income security and the entry or re-entry of those on assistance into the labour force. Job counselling, training, placement, rehabilitation, homemaker and child care services were among the services emphasized. Despite the limited version of the Orange Paper, new perspectives on social services were soon introduced by the Federal-Provincial Working Party on Social and Employment Services. The Working Party rejected the "case" approach in the provision of social services heretofore relied upon by government social workers. Instead, members of the Working Party argued for community development and social change goals for social services. Among the recommendations were that eligibility for services should be separated from financial assistance. "Certain public social services should be available to anyone upon demand, without needs-testing or payment of fees ..., other services upon the basis of diagnosed need ('case services'). User charges should applied to some services ..." (Kelly, 1977). Citizen participation in planning and provision of social services was also recommended.

As a result of the social security review and negotiations, the federal and provincial ministers of welfare acknowledged in a communique, February 4, 1976, that there is

a recognition of the importance of social services for ensuring the opportunity for personal development of all Canadians and preventing and alleviating the social and economic problems of individuals and communities. It is intended that the new legislation assist the provinces in responding to the changing

social and personal needs of Canadians. To that end, the scope of cost-sharing of a number of services will be extended and a number of new services will become eligible for cost-sharing (Canada Federal-Provincial Ministers of Welfare, 1976).

The Social Services Act (Bill C-57) introduced in the Commons in June, 1977 sought to meet this promise. Under Bill C-57, some services would be cost shareable when provided on the basis of identified need.² User charges related to a person's income would apply to certain services (such as day care, meals on wheels, and counselling of all types). Other cost-shareable services would be made available free upon demand, without any needs- or means-test.³

Bill C-57 was intended to provide an impetus toward and a financial incentive for developing a system of universal and less stigmatizing social services by the provinces. It signified a strong federal commitment to the development of personal and community social services. The provinces, on the other hand, would waive residency as a criterion of eligibility and establish appeal boards independent of provincial department of social services (Riches, 1977).

Despite the approval accorded to the proposed legislation by all the provinces in prior negotiations, during the summer of 1977, there was opposition by Quebec and two other provinces. The federal categorization scheme of certain services as universal, limited access, or fee chargeable was perceived to be inflexible and to indicate undue federal control of the services. Demanding more tax points to finance and run its own programs, Quebec denounced the Bill as "an unwarranted intrusion by the federal government into an area of exclusive provincial jurisdiction" (National Council of Welfare, 1978).

In September, 1977, three months after Bill C-57 was introduced, Marc Lalonde withdrew it from the Parliament. He announced that the income security programs under the CAP would continue to operate on the current 50:50 cost-sharing arrangement while social services were going to be financed by block funding. Part of the block funding would be "basic cash contribution" (a lump sum grant of equal per capita amounts to each province) and part a "levelling payment" (Boadway, 1980).

A new bill (C-55) proposing the block funding formula was given first reading on 12 May 1978, but died on the order paper. So legislation is still at the stage of the CAP 50:50 cost-sharing arrangement for both income maintenance programs and social services. Nor have there been any remarkable changes in the kind of programs offered.

The inability of the federal and provincial governments to devise a concerted strategy for improving social services has serious consequences, not just for the poor, but also for many other minority groups such as women, the Native Peoples, the elderly, the disabled, and the mentally retarded, regardless of socio-economic backgrounds.⁴ All these categories of people share the experience of having to cope with a bureaucracy that makes it difficult to discover which level of government offers a given service or funding program.

PROSPECTS FOR THE FUTURE

The above review of federal-provincial disagreements on social welfare shows that the present jurisdictional division of powers in this area, even with amendments to the Constitution and periodic federal-provincial negotiations, have not resolved the contradictions of split responsibilities. The conditional grant as a method of financing social welfare has its supporters and opponents. However, the question is more than just that of the best way of federal financing: conditional grants, tax abatements or unconditional equalization payments. The question is also more than just one of jurisdiction. As has been noted, there was very little discussion of income redistribution during the entire period of social welfare review, although that problem was "central to the articulation of an equitable social security plan" (Bergeron, 1979: 3). This silence over a very crucial point in social welfare is all the more distressing if one recalls the stated goal of the social security review by Marc Lalonde in his 1973 Working Paper. Assuring the provinces some degree of flexibility in determining the levels of income guarantees and supplementation within joint federal-provincial programs in their own provinces, Lalonde states:

Inherent in this flexibility formula ... is the proposition that the Parliament of Canada must continue to play a role in the income security system: that it has a responsibility to combat poverty by way of a fair distribution of income among people across Canada; and that it has a responsibility to promote national unity through preventing extremes in income disparities across the country.

If social welfare including both income security programs and social services is considered in the light of redistribution of income, commitments and obligations are at issue. Obviously only the federal government can redistribute income on a national scope, but there are also disparities within provinces for which redistribution by the provincial government is needed. Thus, shared responsibility as a principle should be recognized as such, the presence of the federal government in social policy should be ensured, and the duties of the federal government in social welfare, especially in the income security programs, should be more clearly stated. Similarly, the acknowledgement of provincial paramountcy in the provision of social welfare is not enough. Rather, obligations to provide social welfare should be imposed on specific levels of the government, be it federal, provincial or even municipal.

During those times when the federal government tried to expand its role in social welfare policy, it used arguments such as strengthening national unity, promoting national interest, or achieving some degree of uniformity in standards, etc. Yet we have seen that during periods of economic slump, it has not hesitated to back away from these goals or diminish its support for social equality in Canada (Carrier, 1981: 8). On the other hand, the provincial governments have typically argued that they are in the best position to judge local needs and hence provide the

appropriate social services. On the basis of this argument, they have vehemently opposed federal intervention in areas of provincial jurisdiction. However, there is no convincing evidence that the provinces on their own have the will or resources to provide a social services minimum paralleling the income security minimum.⁵ Perhaps the case of Saskatchewan, where a social democratic government avowedly with a social conscience was in power in the recent past for eleven years, 1971-1982, may illustrate the point.

Saskatchewan's average annual growth rate of real spending on the Departments of Health, Education and Social Services declined from 4.5 per cent from 1971-76 to 1.3 per cent for 1976-81 (Harding and Riches, 1982). Yet by 1977, 77 per cent of the provincial spending on social services was going to institutional care (mostly operated by commercial agencies), and 50 per cent was spent on "privatised" welfare (that is, services provided by non-profit, commercial or voluntary agencies). This pattern of spending left little resource for initiating and developing preventive services, or more generally, developing a comprehensive social welfare system aimed at an equitable distribution of social and economic benefits from Saskatchewan's growing wealth. The government was "primarily concerned with (natural) resources such as oil, potash and uranium and with the capital requirements of two Crown Corporations -- Saskpower and Sasktel" (Riches, 1980: 14). It would appear that in ideology, policy orientation and practice in the area of social welfare, Saskatchewan like other provinces was throwing back the responsibility for citizens' welfare to the individual, the family, private organizations and the forces of the marketplace.

This rather gloomy picture of social welfare policy development in Saskatchewan should serve warning to the urgent need of a constitutional reform that will not only delineate jurisdictional division of power but also impose duties on the different levels of government to provide comprehensive social welfare to all Canadians. Such a reform should ensure that the roles of the federal and provincial governments be accepted and developed as creative and constructive forces (Riches, 1977) in envisioning, structuring and implementing a system of social security needed in modern society.

CANADA'S NEW CONSTITUTION

Canada's new Constitution was formally proclaimed in April, 1982. However, it does not resolve the dilemmas ensuing from split responsibilities between the federal and provincial governments. Section 92 of the Constitution remains unchanged. The most salient feature of the new Constitution is the Charter of Rights and Freedoms. But the Charter also falls short of expectations. Although it is said in Part III of the Charter, Equalization and Regional Disparities, that "Parliament and the Legislatures together with the government of Canada and the provincial governments, are committed to ... promoting equal opportunities for the well-being of Canadians," there is no guarantee that every person has social and economic rights.

In speaking of rights, one could broadly distinguish between "civil and political" rights on the one hand and "social and economic" rights on the other. The rights of life, freedom of association, freedom of belief and opinion, and democratic rights belong to the first category. The rights to work, equality of economic opportunity and social security fall into the second category (Watson, 1976). In many European countries it is generally accepted that rights of citizenship include social and economic rights (Wolfe, 1980). It is recognized that the nature of social rights is neither self-evident nor given. The content of social rights, moreover, is relative to the prevailing standard of living in a particular society at a particular time. However, in this regard, we can refer to the United Nations Declaration of Human Rights, (Canada, incidentally, played a key role in bring about its proclamation in 1948). The U.N. Universal Declaration includes economic, social and cultural, as well as political and civil, rights. Article 25 (1) reads:

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control;

and Article 24 reads:

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (United Nations, 1978, p. 1).

The U.N. Declaration not only recognizes that social services to meet human needs are a human right, but also that economic rights include the right to an adequate standard of living. One can argue that the latter could embrace the right to a guaranteed income. In Canada we are in a good position today to venture into this income security program. Not only do we have the technological capabilities for the data processing and computation necessary for such a program, but experiences gained in recent years have provided answers to some important questions. The refundable child tax credit established in 1979 has demonstrated that the personal income tax system can be integrated with the social welfare system in the form of an equitable, non-stigmatizing income security program. The simple income test employed in Guaranteed Income supplement to Old Age Security has also been proven to be workable. Moreover, the Mincome Manitoba reports have provided solutions to some technical problems in implementing GAI. Whether or not GAI will become a reality in the 1980's will be "related more to political and constitutional factors than to the availability of answers to technical problems of social security" (Splane, 1980: 87).

Some of the wording in the U.N. Universal Declaration may be subject to discussion and modification. Nevertheless, the general principles proclaimed are sound guidelines for a constitutional framework that seeks to ensure the well-being

of citizens in a modern industrial society. Unfortunately such issues were not considered in discussions leading to the adoption of the new Constitution.

To conclude, the prospects for social welfare in Canada at this point in history are dim. The virtual silence over social policies in the recent constitutional debate is lamentable and will eventually prove detrimental to the development of Canada as a nation. One way of resolving the other dilemmas stated at the beginning of the paper -- social development vs. social control and differential welfare benefits to different social groups -- was to address the constitutional dilemma regarding social welfare. It would not be enough simply to allocate spheres of jurisdiction. Rather, only when obligations are imposed on each level of government for various aspects of social security could citizen groups articulate their demands for income redistribution and quality social services in a directed and focused way.

NOTES

1. "Social welfare" and "social security" are used interchangeably in this paper. Social welfare is conceptualized as the societal institution concerned with the security and well-being of the individual and the family. It includes such measures as "general income redistribution programmes, payments to persons in need, social insurance schemes, welfare counselling and other services, housing, hospital and medical care insurance, public health clinics, and other preventive health measures, vocational training and rehabilitation, urban redevelopment and the development of depressed regions and other programmes" (Statistics Canada, 1978). The entire institution is made up of two broad components: income security and social services. The latter in turn includes three categories: preventive and public health services, curative health services, and social welfare services. In this paper, in addition to income security programmes, we are mainly concerned with social welfare services, and not those services related to education, health, adult corrections, recreation or housing.
2. The cost-shareable services based on needs-test include: "children's protective, preventive and developmental services; home support services, such as homemakers and meals on wheels; family and other types of counselling; rehabilitation services for the disabled, whether or not employment enhancing" (Kelly, 1978: 158).
3. The universal, free services include: information and referral, crisis intervention, family planning, community-oriented preventive services (such as family life and pre-natal education) and community development services.
4. By the early 1970's it became increasingly clear that all Canadians, and not just the poor, had need for personal and community social services at some time

in their lives. However, the poor would likely have greater reliance on services provided by the state while the rich could purchase certain services in the private sector.

5. It should be noted that the "social minimum" suggested in the Marsh Report (1943) was essentially an income support minimum formed by an integration of social insurance, family allowances and social assistance.
6. In this paper, I follow the definition of "rights" given by Baines (1980: 1):

A 'right' is any claim which is protected by law. The phrase 'human rights' will be used to designate those claims which people make against the state by virtue of their membership in the state. There are other terms such as 'civil liberties' or 'fundamental freedoms and rights' which might be used interchangeably with 'human rights'. Generally speaking, these terms focus on the distinction between what a citizen is entitled to do or not do and what a government can do or not do. If the normal function of government is to make and enforce rules; then a human, or citizen's, rights imposes limitations on that rule-making ability. There is, nevertheless, a wide variety of expectations about what those limitations should be.

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