Drawing Lines

Defining the Roles of Municipal, Provincial
and Federal Governments in Addressing Urban
Social Issues in Canada

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Summary

There are two kinds of responses to street level urban social challenges such as seeing people living on the streets. The first focuses on the homeless: the system needs to be fixed. Once the system is fixed, there will be very few, if any, homeless people and hence there will be very few people sleeping on sidewalks. From this perspective, the problem of the homeless is solved by addressing the *root* cause.

The other response is to see a person using drugs or engaging in prostitution and to focus on the impact of such behaviour on society as a whole. Such behaviour is seen as a sign of *disorder*. From this perspective, the cause of the behaviour is less important than the fact that people judge it to be offensive, and perhaps even threatening. The fact that people are engaging in these activities is a failure of our legal system in that police are without the authority or resources to stop these behaviours.

Canadians can address both responses at the same time. To improve the effectiveness of these responses, the roles of the three levels of government need to be more clearly defined. This discussion paper argues that provincial governments need to be clearly responsible for root causes. It further argues that both the federal and provincial governments should more clearly empower municipal governments to be responsible for urban disorder.

This paper is not about determining how intergovernmental overlaps can be overcome through agreements, but rather about how we might reconceptualize the scope of governmental jurisdictions in Canada.

Introduction

Do "bad" neighbourhoods exist? If so, what, if anything, can be done about them and who should do it? These are extremely difficult public policy questions. Some people do not see the problem as serious. They suggest that, to the extent that "bad" neighbourhoods actually exist, they are simply spatial manifestations of a broken society: most citizens *want* there to be bad neighbourhoods because the alternative is to have social problems spread more equally throughout our urban areas. Another version of this position is that social problems *are* prevalent throughout our cities, and that bad neighbourhoods perform a useful function because they at least force us to confront reality rather than constantly to deny it.

A quite different approach is to deny that urban social problems are real or to suggest that, if they are, there is nothing that can be done. Such an approach suggests that society always has its "losers," that it is natural for such people to congregate together, and that we are simply wasting valuable resources if we think we can change the natural order of things. A few charitable initiatives to assist the most unfortunate cases, combined with tough policing to keep the others in line, are about all that can be expected.

In this paper I am not addressing such lines of argument. Instead, I am assuming that urban social problems *are* real, that they are often territorially concentrated within particular neighbourhoods, and that the vast majority of citizens want our governments to try to fix them. In Canada, the reality is that urban social problems relate to the responsibilities of all three levels of government. Attempting to sort out which level can most effectively deal with the various aspects of these problems is an important objective, and one which this paper aims to address. The paper presents an option for discussion that might also apply to other aspects of social policy. We need sometimes to conceptualize our social problems in different ways so that we can think more effectively about the different roles of each of our levels of government.

Three Levels of Government and Canadian Urban Neighbourhoods

I need hardly point out that the term "urban neighbourhood" does not appear in the *Constitution Act, 1867*. A literalist might claim that they are obviously under provincial jurisdiction because they fall into the category "Generally all Matters of a merely local or private Nature in the Province" (s.S.92(16)). Because provinces are also given authority over "Municipal Institutions in the Province" (s.92(8)), it could be claimed provinces also have ultimate control over any relevant municipal activities within urban neighbourhoods. But the whole purpose of the analysis that follows in this paper is to argue that we need a much more

sophisticated approach than simply reading the *Constitution Act, 1867.*

The Federal Role

Notwithstanding all the recent attention on the need for a new federal "urban agenda," the federal government has always had a huge role to play in regulating what goes on in our urban neighbourhoods. It does so mainly through its jurisdiction over criminal law. Exactly what such jurisdiction entails and how it might be reformed are important themes for this paper. For the moment, we must acknowledge that the presence of prostitutes, or drug-users, or even homeless people on a residential street is not a problem about congestion on sidewalks. Their presence in public places has wider societal implications, which in one way or another in different times and different circumstances have been addressed by Canada's criminal law.

Recent talk about a "new urban agenda" for the federal government does not focus much on the Criminal Code. Instead it is about the use of the federal spending power. There is no shortage of ideas about how the federal government can help neighbourhoods by spending money on urban social issues. Some of these ideas will be addressed briefly later in this paper.

The Provincial Role

There are very few legal restrictions—apart from amending the Criminal Code—on what a provincial government might be able to do as part of a policy dedicated to improving the quality of life in its urban neighbourhoods. In reality, provincial governments delegate much of their relevant authority to municipal governments, but substantial provincial authority remains. For example, in 1999 the Ontario legislature approved the *Safe Streets Act*, aimed at preventing "aggressive" panhandling on public roadways, sidewalks, and transit vehicles. The law has survived a major constitutional challenge and has been passed in a similar form in other provinces or as a municipal by-law in some cities.

It is now universally acknowledged that one of the major causes of homelessness and drug abuse in Canada has been the de-institutionalization of mental health patients. This is clearly a subject that is under provincial jurisdiction (s.92 (7)). Everyone seems to agree that de-institutionalization can only achieve its objective of enhancing mental health if appropriate support services for patients are in place. They seldom are, and patients requiring such services often seem to drift into drug addiction, prostitution, and/or homelessness because they are unable to access the mental health services that they need (Vancouver Police Board 2008).

Provincial governments are also responsible for indigent people. In theory, many problems, including homelessness, could be solved simply by sending larger provincial cheques to poor people. An initial problem with such a policy is that people cannot receive such cheques if they are homeless in the first place. But even if people do receive cheques, there is no guarantee that they will spend the money on food and shelter, rather than on disruptive behaviour within their neighbourhoods. Finally, of course, there is the ever-present problem that a generous level of provincial financial support could have the unintended consequence of causing some people to cease work so as to benefit from the high welfare payments.

As a way of assisting citizens who have mental health problems and/or who are indigent, provinces also provide subsidized housing, the theory being that stable housing arrangements are a prerequisite for the solving of either of these problems for many individuals. Subsidized housing can take many forms: temporary shelters, single-occupancy rooms, communal living with various forms of support services, and, of course, subsidized rental apartments or houses that are no different from those generally available on the private market. The main problem with this policy field is that demand is virtually insatiable: the better the subsidized housing options, the more people will be attracted to it, even in some cases from other provinces.

The Municipal Role

Through zoning by-laws and the provision of urban services such as parks, street cleaning and garbage collection, municipal governments play a huge role in determining the quality of urban life in all neighbourhoods. Less directly, they are responsible for policing, an issue to which I shall return.

In some provinces, notably Ontario, municipalities are charged with providing various forms of social services, including income support. But even in Ontario, policy decisions are taken at the provincial level and that is the source for most of the funding. Although major municipalities outside Ontario are clearly concerned about the role of social services within their boundaries, they rarely fund or deliver such programs themselves.

Conceptualizing Urban Social Problems

Urban social problems are real to the extent that they cause harm. This is simply another way of saying that we are not concerned here with matters of private morality or with public behaviour that is harmless. Private sexual activity between consenting adults is not a social problem, which is why it is no longer regulated by Canada's criminal law. The fact that some residents of Canadian cities always wear turbans is not a social problem, because turbans do no harm, even if some other residents find them annoying. Much of the controversy about various kinds of public behaviour in cities relates, of course, to the question of whether or not they do cause harm. Is anyone being harmed by homeless people sleeping on public sidewalks? Answering this question brings us to the heart of our analysis.

There are two kinds of responses to this question, and in some circumstances both can be appropriate at the same time. The first kind of response focuses on the homeless: of course, they are being harmed; no one wants to sleep on the sidewalk. Anyone sleeping on the sidewalk in a country as wealthy as Canada is obviously a victim of a system that has failed them in one way or another. The system needs to be fixed. Once the system is fixed, there will be very few, if any, homeless people and hence there will be very few people sleeping on sidewalks. From this perspective, the problem of the homeless is solved by addressing the *root cause*.

The other response is to see a person sleeping on the sidewalk and to focus on the impact of such behaviour on society as a whole. Such behaviour is seen as a sign of *disorder*. From this perspective, the cause of the behaviour is less important than the fact that people judge it to be offensive, and perhaps

even threatening, not because it indicates the failure of society to provide decent housing (as in the root cause approach described above) but because it indicates a failure to enforce society's norms about the appropriate uses of sidewalks. In short, the fact that people are sleeping on sidewalks is a failure of our legal system in that police are without the authority or resources to remove homeless people from the streets. This response to homelessness has been bolstered in recent years by the "broken windows" theory of policing, which holds that broken windows (and people sleeping on streets) are signs of disorder and that disorder drives out law-abiding residents and attracts criminals. According to this theory, crime can be reduced by reducing disorder; fixing windows and getting the homeless off the streets ultimately means fewer robberies and homicides (Kelling and Coles 1996).

In the rest of this paper I shall argue that, in addressing social problems in urban neighbourhoods, governments must deal with root causes *and* with urban disorder. In the Canadian context, my argument is that provincial governments are primarily responsible for addressing the root causes while it is the federal and municipal governments that are strangely yoked together with responsibility for urban disorder.

Addressing the Root Causes of Urban Social Problems

Discussing root causes in social science is fraught with difficulty. There is always going to be someone who will claim that the root cause is deeper than it seems. The most common current form of this argument in academic circles is ultimately to attribute all evils to global corporate capitalism (e.g., Mitchell 2003). My assumption is that, even if we acknowledge the pervasive power of global capital, governments can still act to improve the lives of their most oppressed citizens. Indeed, as many of our most astute social analysts have observed over the years, it is likely that governments best serve capitalists by protecting them from their own most egregious excesses. In short, by acting against the immediate interests of capitalists through taxation and regulation, governments prevent revolution, thereby ultimately serving the long-term interests of capitalists. So I am the first to acknowledge that the root causes analyzed below

are not necessarily the deepest causes of the problems I am discussing.

My claim is that, in the Canadian context, it is the provincial governments that are most responsible for root cause policies. But before focussing on them, there are some important points to make about the federal government. First, there is an obvious sense in which the federal government has an overarching responsibility for Canada's national security and for its overall economic well-being. If it is not meeting these responsibilities, the provincial governments can do little to attack the root causes of social problems. But there is another more specialized federal responsibility that is highly relevant to the concerns of this paper. Under Section 91(24) of the *Constitution Act, 1867*, the federal government has legislative jurisdiction over "Indians, and Lands reserved for Indians." If the federal government had somehow managed to exercise this responsibility in such a way that Canada's indigenous peoples were not in any way disadvantaged with respect to the non-indigenous settlers, then many of the social problems in western Canadian cities would be of a much lesser magnitude. While acknowledging the importance and distinctiveness of the problems of urban indigenous people, this paper is not concerned with any particular responsibility that the federal government may or may not have with respect to such problems. The assumption of this paper is that provincial policies directed at the root causes of urban social problems are to apply fully and equally to urban residents of indigenous origin regardless of their status with respect to Canada's *Indian Act* and are not meant to foreclose any other policies designed for urban indigenous people, including the creation of "urban reserves."

As indicated previously, provincial governments in Canada have all the jurisdiction they need to address the root causes of urban social problems. For all practical purposes, they have unlimited taxation authority and they have functional jurisdiction over health, education, social policy, and the built environment. Many Canadians have been reluctant to recognize how fortunate we are to have such provincial governments, especially since their boundaries, unlike those of American state governments, do not bisect or trisect major metropolitan areas (except in Ottawa-Gatineau). Many advanced industrialized democracies (Britain, Spain, Italy, France) have been struggling with varying degrees of success to create powerful regional authorities to serve exactly the purposes that our provinces serve. With increasing urbanization, it is becoming clear that our provinces are no longer primarily focussed on agriculture and natural resources. They have effectively become the strategic policy-makers for our respective urban futures (Sancton 2008). This is true both for physical infrastructure and for social policy.

One of the most notable features of the provincial role in social policy is that provincial governments rarely deliver social services themselves through their own public servants. They much more commonly fund a wide range of organizations that originally started as charities or nonprofit organizations and that have increasingly become reliant on provincial funds. The provincial role in the delivery of social services is often not apparent to the casual observer. The more common perception is probably that municipal governments are directly involved in such services. But they rarely are. Many would suggest that they should be, if for no other reason than that they are "closer to the problems."

But I do not support such a position. Social policy is inherently redistributive. It involves taxing relatively rich people to fund programs for relatively poor people with problems. If municipalities are in charge of such policies, they are under huge pressure to reduce their financial commitments because, if they do not, there is always the threat that wealthy individuals or companies will simply go elsewhere (Peterson 1981). When going elsewhere means only a move from one municipality to another, the threat is often (but not always) real. This capital mobility problem can be fixed by introducing provincial minimum standards for all municipalities, but this in turn means a new branch of the provincial bureaucracy to make sure local administrators are following the rules. This is not a route we need to take, especially when the combination of provincial funding and nonprofit service providers has the potential to be so effective.

The provision of subsidized housing deserves special treatment in this discussion, primarily because there has historically been a stronger federal and municipal presence in this field than in other aspects of social policy. Assisted housing in Canada was largely pioneered by the Canada Mortgage and Housing Corporation (CMHC), a federal Crown corporation that used profits it made from mortgage insurance to fund Canada's original

public housing projects, especially in the late 1940s and 1950s. Its subsequent history has been a long decline, with much of its insurance and financing business going to the private sector and almost all its responsibility for assisted housing going to provincial housing corporations. While housing advocacy groups and the Federation of Canadian Municipalities (2008) continue to support this federal presence, it is difficult to see why it is inherently necessary. From their point of view, modest federal funding is obviously better than no federal funding, but we are long past the stage where provincial governments and housing corporations are dependent on federal leadership in this field.

Municipal governments are important for assisted housing because they must either provide the land or provide supportive zoning provisions (Calgary 2008, Vancouver 2008). In theory, a provincial government could arrange things such that it could build assisted housing wherever it wanted without municipal approval, but such an intervention would be at best politically dangerous. For all practical purposes, provincial governments need municipal support for the building of new units of assisted housing—and this is no doubt as it should be.

The fact that provincial governments have such great potential power to attack the root causes of urban social problems does not mean that they will use it. They obviously face many other demands, especially concerning health care. It may be obvious to professionals and service-providers in the field that the de-institutionalization of psychiatric patients requires that integrated community support services must be available in areas of greatest need, usually areas where mentally ill people end up living on the streets and/or abusing drugs. But someone has to trade off such demands against those for faster treatment for cancer victims and hip replacements for aging baby-boomers. Making such trade-offs is what provincial governments in Canada do.

Their job is far from easy. But intergovernmental obstacles are not the main problem. Arguably the federal government could free up resources for the provinces by deliberately reducing its taxes so that the provinces could immediately fill the void. Or it could amend the *Canada Health Act* to make it easier for hip replacements to be funded privately. In both cases the

expectation would be that public funds could more effectively be spent by the provinces, on community-based psychiatric services, for example. Such proposals open up whole new areas for political dispute. Acknowledging that there is always room for improvement, we should accept that our provinces are well equipped to attack the root causes of urban social problems.

Urban Disorder

Even if Canadian governments had unlimited funds to attack the root causes of urban social problems, it is likely that these problems would still occasionally be manifested on the street. Not all drug treatment or mental health programs work for all the people all of the time. Some women and men without drug or mental health problems attempt to sell sexual services on the street. It is likely that these remaining manifestations of social problems would be concentrated in particular areas of the city, probably near downtown. Some citizens—especially those in the immediate area—will expect that action be taken to so that the ordinary pattern of urban life for law-abiding citizens would not be unduly disturbed. What is to be done and who is to be responsible for doing it?

This takes us into much more controversial territory. The main political dispute about root causes is how much to spend, and whatever amount is allocated is not enough to solve all the problems. There will therefore always be victims "on the street" who, in the eyes of some people, would not be there if society were doing more to attack the root causes of their problems. For these victims' advocates, the problem is rarely perceived as "disorder;" the problem is always the failure to attack root causes. This is just one reason why many do not accept there is such a thing as a problem of urban disorder.

It is a matter of historical fact that, until about fifty years ago, most western democracies, including Canada, maintained order on the streets by enforcing vagrancy and drunkenness laws, committing mentally ill people to institutions, and generally expecting the police to enforce middle-class values against non-conformists. Since then, vagrancy laws have largely been eliminated, the mentally ill are being treated "in the community," and much attention has been focussed on insuring that police

enforce only the law and not just their own prejudices. As a result we are closer to living is a just society, especially in our inner cities. But the consequence is that police cannot remove sleeping people from sidewalks, even to take them to shelters; nor can they generally stop people from "panhandling," even if the panhandlers are eligible for government financial assistance. People who are removed for from the streets for creating disturbances caused by substance abuse or mental illness are soon back again because there are often no legal grounds for keeping them in custody.

Many American city governments have been taking action on urban disorder. On the surface at least, these American cities now appear to have their social problems under better control. Leaving aside the question as to whether the American model is one to emulate, we should at least be open to understanding how it works, especially in light of an emerging general view in Canada that our city's municipal governments should have more power and authority to deal with local issues within their boundaries.

The recent American narrative about urban disorder goes something like this: until the early 1990s, police focussed on fighting major crime, of which there was a great deal. Police paid little attention to minor infractions of the law because their resources were limited and they had more important things to do. In any event, many "minor infractions" relating to urban disorder had been successfully challenged in the courts so they could not be enforced anyway. But in 1982, James Q. Wilson and George Kelling wrote a hugely influential article for *Atlantic Monthly* called "Broken Windows" which argued that the best way to fight crime was to fix broken windows, remove graffiti, arrest minor offenders and generally make it clear that "someone was in charge." Police forces, notably in New York City, eventually adopted the "broken windows" approach, municipal councils adopted various by-laws to facilitate it, and crime went down dramatically. New Yorkers found that their streets and parks were attractive places again, and even many "liberals" applauded the changes.

There is a huge debate in the United States about many aspects of the "broken windows" approach, including whether it was the fixing of the windows that reduced crime or the actual arresting of the window-breakers—or whether there was less

crime because of there being fewer young adult males living in central cities (Harcourt 2001). Interesting as such debates are, they need not concern us here. What is relevant for this paper is that the "broken windows" approach involved new forms of municipal and police response to panhandlers, drug abusers, and prostitutes. Most of the new responses involved increased rates of arrest and incarceration, which in turn spawned great criticism and many lawsuits.

One of the best known academic critics of the "broken windows" approach is Bernard E. Harcourt. Despite his overall critical approach, he takes disorder seriously:

> Disorderly conduct does cause economic and aesthetic harms…. Homelessness, loitering, and aggressive panhandling are aesthetically unpleasant, and may have a negative impact on commercial activities in downtown neighborhoods. Many people are bothered by panhandlers, and may in fact change their behaviors in order to avoid homeless street people. Although these phenomena are not evidence of the broken windows theory, they are nevertheless harms and must be weighed in the analysis (Harcourt 2001, 211-12).

Harcourt clearly does not support "policies of aggressive misdemeanour stops and frisks and arrests" (221) as a way of countering the harms caused by disorder. But he does suggest some alternatives: physical barriers to prevent entry to places people are not supposed to be; licensing prostitution; immediate removal of graffiti in badly-impacted areas; flexible work programs for panhandlers (221-3). This is an incongruous list—it is meant to be. Harcourt asks only that "we let our imaginations roam within a realistic and practical range" (224). Significantly, Harcourt does not let his imagination roam as far as government-supported safe injection sites for drug addicts, a perfect example of a policy that promotes more orderly streets and public health at the same time. (It is certainly in itself *not* an attack on the root cause of drug addiction.)

The presence in Vancouver of North America's one safe injection site merits our attention for a number of reasons: 1) it shows that in some respects at least, Canadian cities are potentially open to a wider range of policy options for preventing urban disorder than American cities are; and 2) it is an example of a

policy response involving all three levels of government at the same time. Each of these points will be discussed in turn.

Notwithstanding the existence of the Vancouver safe injection site, political discussion of urban disorder in Canada—and what to do about it—is remarkably muted. For many, this may be seen as a good thing, because stirring up public debate could well lead to more demands for harsher municipal by-laws against disorder and more heavy-handed police intervention. But, to the extent that residents of Canadian cities are genuinely concerned about urban disorder, surely we would be better off confronting such concerns rather than simply letting them simmer and provoke more public alienation about the capacity of governments to address problems that really bother people.

There are two significant institutional differences between Canada and the United States relating to urban disorder. One is the fact that, in the US, criminal law is a state responsibility, and some states even delegate such law-making to counties and municipalities, which explains why brothels are legal in some counties of Nevada but nowhere else in the country. Americans are used to having fairly localized debates about matters that in Canada are covered by federal criminal law (Sharp 2005). Another difference between the two countries is that municipal police forces in the US are usually under much closer and direct control of local politicians than in Canada. In many large American cities, the police chief reports directly to the mayor and is totally and directly dependent on the municipal council for funding. In Canada, municipal police chiefs are usually insulated from such direct political control by police boards or commissions of one sort or another (Beare and Murray 2007). The American model for police governance is not always superior, but it does mean that local voters have more direct and immediate influence over what it is that their police actually do.

In both countries, however, the protection of basic human rights is entrenched in the federal constitution. This means that any law at any level of government can be challenged in court on the grounds that it violates such rights. Canadians who might believe that municipalities should not have the authority to approve by-laws allowing police to arrest people for "being homeless" can be re-assured. No government in Canada—or in the United States—has the authority to approve such an

obviously vague and unfair law. The courts would quickly strike it down, and that is why it would likely never be passed in the first place.

To conclude this section of the paper, I propose that the federal government remove itself from matters that are primarily related to urban disorder. This would mean that the federal government would no longer regulate prostitution, drunkenness, and the public consumption of drugs. There are obviously a great many difficult legal issues relating to such a proposal. But the overall objective is clear. Municipal governments should have the legislative tools (within the confines of the Canadian Charter of Rights and Freedoms) to control urban disorder. Furthermore, they should have sufficient direct control over policy-making for their own police forces to insure that their policies are implemented and enforced.

Conclusion

This paper has not been about innovative social programs, or even about innovative intergovernmental initiatives, such as the tri-level Vancouver Agreement. The former are best analyzed by experts in the field. The latter are clearly relevant to this paper, but are not its real focus. Intergovernmental agreements are obviously superior to intergovernmental disagreements, but they are not superior to a state of affairs in which one government is clearly in charge. This paper has not been about determining how intergovernmental overlaps can be overcome through agreements, but rather about how we might reconceptualize the scope of governmental jurisdictions in Canada.

As we have seen, the fact that our provinces have so much institutional, financial, and legal capacity to attack the root causes of urban social problems in Canada is a major attribute that we should constantly exploit. The only apparent danger we face is that disgruntled policy activists in particular provinces will from time to time turn their attention to insisting that the federal government launch new programs of its own to solve the problems with which they are concerned. There might well be times when they feel this is their only option and their actions might well have the desired effect of shaming their province to take action. As a possible tactic, it should not be condemned. But it is hard to see any broad strategic purpose in arguing

that the federal government needs to have a strong presence in determining policy-making for addressing the root causes of the urban social problems discussed in this paper.

There is even less justification for expecting municipal governments to be responsible for attacking the root causes of social problems. Activists intuitively understand that making municipalities directly responsible for urban social policy would likely provoke a "race to the bottom" in which opponents of governmental intervention would be the only winners.

Municipalities, to their credit and in their own self-interest, are not demanding that they have increased control over social policy. What they want—and have partially obtained in recent years—is relief from detailed provincial controls and the granting of authority from their respective provinces that is sufficiently clear and broad that they can be better protected from legal challenges in the courts from those whom they are attempting to regulate and tax (Garcea and Lesage 2005). And, of course, they have been asking for more money from wherever they can get it, including the federal government. But they have not been asking for more direct authority to control urban disorder.

It is the municipal level of government that has the most direct interest and the greatest capacity to regulate behaviour on our cities' streets. We should be exploring every opportunity to remove the federal Criminal Code as a factor in determining, for example, what happens to drug-addicted homeless prostitutes. As a supplement to root cause provincial policies, municipalities should have the authority, within the provisions of the Canadian Charter of Rights and Freedoms, to regulate how our streets and sidewalks are used, how consenting adults engage in commercial sex, and under what circumstances individuals can use otherwise illegal drugs in public places.

Just because vagrancy is no longer an offence in the Criminal Code does not mean that municipalities should be prevented from regulating where people can sleep. Nor should we tolerate the bizarre current state of affairs whereby municipalities license escort services and massage parlours but are prevented from licensing brothels because they are illegal under the Criminal Code. Legalized brothels are not a magic answer to the problem of street prostitution (Wagenaar 2006), but municipalities should have this option, just as they should have the option of

approving safe-injection sites of the kind that has worked in Vancouver.

What I am advocating is that provisions of federal law that are primarily concerned with urban disorder be loosened. The exact legal details of such a plan are beyond my competence and beyond the scope of this paper. But the objective would be to give municipalities—with the necessary consent of their respective provinces—new legal space to work out their own solutions to their problems. Some solutions will work and some will not. Some will doubtless run afoul of the remaining federal legal presence or, more likely, the Charter.

We cannot always expect to learn from the experiences in other countries whose legal traditions and social conditions and practices are often very different from ours. We need some urban experimentation of our own on these matters. What better way to get it than by expecting our major urban municipalities to work out new ways of controlling and regulating what happens in our public places?

In the United States, there are huge political divisions between those who believe in attacking root causes and those who believe in attacking disorder. One approach tends to exclude the other. There are certainly strong echoes of such divisions in Canada. But Canadians generally seem to have more faith in the ability of governments to provide services collectively—universal medicare being the prime example. Arguably, we have a greater collective attachment than Americans to our public urban spaces and a stronger commitment to the notion that all parts of the city belong to everyone. This is why we must attack at the same time both the root causes of our urban social problems and the signs of disorder that they provoke. We are well equipped institutionally to attack the root causes, even if we inevitably fall short of the ideal.

While maintaining responsibility for national security and for the well-being of the national economy, the federal government needs to acknowledge that, apart from its own programs for payments to individuals (e.g. Employment Insurance, Canada Pension Plan, Old Age Security), it should not be directly involved in providing programs to attack the root causes of urban social problems. Instead it should free up funds or tax room for provinces to take full responsibility for root causes. Neither

should the federal government, through the Criminal Code, concern itself with issues that that are primarily concerned with urban disorder. Instead, both the federal and provincial governments should acknowledge that municipalities are the most appropriate level of government for making and enforcing laws about the uses of our city streets. ■

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