



CHAPTER 6

Canada

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The vast majority of Canadians live within the jurisdiction of a general-purpose municipality to which they elect representatives and pay taxes and fees, and from which they receive a wide range of services. Municipalities function in a variety of contexts, from ones of rapid growth, as in

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metropolitan areas, to ones of relative or absolute decline, as occurs on the periphery. More widely, they function in a context of intergovernmental entanglement: in Canada, local governance is multilevel governance, in which local government plays an essential role.

I COUNTRY OVERVIEW

Canada is a vast, and for the most part, sparsely populated country. With a land area of 8.8 million km², its territorial jurisdiction is exceeded only by Russia and China, yet only 0.67 per cent of the land area is built-up.¹ Nevertheless, Canada is a highly urbanised nation, with most of its 38 million inhabitants living in a narrow band of settlement along the border with the US. About one-quarter of Canadians live in the Toronto region, a further 12 per cent in greater Montréal, and another 7 per cent in metropolitan Vancouver.² Fully 71 per cent live in settlements inhabited by more than 100,000 people—designated by Statistics Canada as ‘census metropolitan areas’ (CMAs)—and most of the remainder, in smaller urban settings.

Canada’s ethno-linguistic composition reflects its colonial history. Prior to European colonisation, what is now Canada was inhabited by indigenous peoples whose economic life, culture, and governance were intertwined with the diverse physical environments they occupied. The establishment at the turn of the seventeenth century of permanent European settlements in what is now Québec and the Atlantic provinces initiated a centuries-long process of westward and northward colonisation. Indigenous peoples today comprise about 5 per cent of the population, with about half of them living in cities. In reflection of the country’s colonial origins, French is the native language of 21 per cent of the population, and English, of 56 per cent. Canada is also a nation of contemporary immigrants: its annual population growth rate of 1 per cent is fuelled by an open immigration policy that prioritises skills, education, and knowledge of Canada’s two official languages, English and French. In 2016, 22 per cent of the population had been born abroad, with the

¹ Statistics Canada, ‘Human Activity and the Environment, Cat. 16-201-X’ (2011) Government of Canada, www150.statcan.gc.ca/n1/pub/16-201-x/2017000/app-ann/tbl/tbl-a1-eng.htm (accessed 5 July 2021).

² Zack Taylor, ‘Theme and Variations: Metropolitan Governance in Canada’ (2020) 49(3) *IMFG Papers on Municipal Finance and Governance* 3.

most common countries of origin being the People's Republic of China, India, and the Philippines.

With a gross domestic product (GDP) of USD 1.9 trillion, or USD 48,405 per capita, Canada is a wealthy, advanced industrialised country with a diversified economy based on natural-resource extraction, manufacturing, and services.³ The export-oriented manufacturing base centred in Ontario and Québec has been eroded by lagging productivity, unfavourable currency exchange rates, rising protectionism among trading partners, and automation. Canada's largest export industry, the heavy oil and natural gas extraction sectors predominantly located in Alberta, Saskatchewan, and Newfoundland and Labrador, has faced persistent difficulty in accessing global markets. Canada's largest cities, and Toronto in particular, have become globally significant hubs of financial and other high-value-added services, and have in recent years accounted for most net job creation.

Canada therefore has a highly regionalised economy that has recently concentrated considerable wealth in large cities. Nevertheless, according to the Organisation for Economic Co-operation and Development (OECD), Canada's Gini index of income inequality is 0.303, lower than that of other English-speaking countries but higher than in Northern Europe and Scandinavia, perhaps reflecting the socioeconomic impact of its universal health insurance and income-support programmes.⁴

Canada has a variation of the British Westminster system of government and a common law legal system.⁵ Provincial government institutions mirror the national ones, except that they are unicameral. The prime minister, as head of government and (in practice) the leader of the largest parliamentary party, has greater political autonomy than in Britain or Australia, as he or she is selected by the party's mass membership, not the governing party caucus. Parliamentarians are elected using a single-member plurality system, which magnifies the size of the winning party's representation and often produces stable majority governments.

While the federal government has superior access to revenues and the ability to redistribute wealth between groups and regions, the provinces

³ OECD, 'Country Statistical Profile: Canada' (2021), <https://data.oecd.org/canada.htm> (accessed 5 July 2021).

⁴ OECD, 'Income Inequality (Indicator)' (2021), <https://doi.org/10.1787/459aa7fl-en> (accessed 5 July 2021).

⁵ Québec remains a partial exception; it retains many aspects of French civil law.

deliver most social programmes, including health care, education, and social assistance. As a result, many important policy questions are debated and settled through ‘federal-provincial diplomacy’ rather than through intra-party brokerage or within a regionally representative upper legislative chamber.⁶ Provincial governments, along with the courts, a free press, and an active citizenry, are the primary checks against arbitrary action by the federal executive.

2 HISTORY, STRUCTURES, AND INSTITUTIONS OF LOCAL GOVERNMENT

While Canadian local government comprises a variety of types of public entities, the predominant type, and that which is most often identified as such, is the general-purpose municipal corporation. Municipalities are established by, and draw their powers from, provincial legislation: they are ‘creatures of the provinces’. There are about 3700 municipalities in Canada, including upper-tier authorities in two-tier arrangements.⁷ No official count is kept because the federal government does not collect information about local government institutions. It would be incorrect to say that there is a typical Canadian format of local government, or a national local government ‘system’. Each province has evolved its own local government system tailored to its local conditions, resulting in considerable variation in institutional forms across the country.

Although the Canadian population is concentrated within larger metropolitan settlements, municipal governments are on average quite small—the average population of lower- and single-tier municipalities is under 10,000. Canada’s largest municipality is the City of Toronto, with 2.8 million residents; the smallest has only a few inhabitants. Prince Edward Island and Saskatchewan have the most municipalities in proportion to the population residing within them, at about 70 municipalities per 100,000; Ontario has the least, at 1.8. The national average is 9.5 municipalities per 100,000. These ratios have declined over time through population growth and municipal amalgamations.

⁶ Richard Simeon, *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada* (University of Toronto Press, 1972).

⁷ Zack Taylor and Neil Bradford, ‘Governing Canadian Cities’, in Markus Moos, Tara Vinodrai, and Ryan Walker (eds) *Canadian Cities in Transition* (Oxford University Press, 2020) 33–50.

While permanent urban settlements had existed since the seventeenth century, they had been governed through colonial administrative systems. Patterned on the British model, the earliest municipal corporations were established by charter during the colonial period.⁸ The first was Saint John, New Brunswick, in 1785, followed by Montréal, Québec City, Toronto, Halifax, Kingston, and Hamilton in the 1830s and 1840s. These charters arose less from local demand than from the desire of colonial authorities to decentralise administration.

A key turning-point was the enactment of the Municipal Corporations Act, commonly referred to as the Baldwin Act, in 1849, which repealed all existing municipal charters in Upper Canada (now Ontario) and replaced them with a general legal framework.⁹ The Baldwin Act became the template for general municipal legislation in the other provinces. Municipal incorporation accelerated during the late 1800s as urbanisation and population growth generated new demands for infrastructure and services, and as provincial governments sought to shed liabilities by decentralising infrastructure financing.¹⁰ Throughout the twentieth century, and especially after the Second World War, municipalities became increasingly involved in the delivery of provincially mandated services, often funded by conditional grants from the provinces. For this reason, there is a tension between municipalities' identities as a democratic government and as a subordinate agent of other levels of government.¹¹

Two-tier municipal government is prevalent in much of Ontario and Québec, whereby responsibilities are divided between a county or equivalent entity and constituent municipalities. Successive reforms in these provinces have consolidated two-tier systems into unitary municipalities in some places while leaving two-tier institutions in place in others. The western provinces (British Columbia, Alberta, Saskatchewan, and

⁸ For overviews, see Richard Tindal, Susan Tindal, Kennedy Stewart, and Patrick Smith, *Local Government in Canada, 9th Ed* (Nelson, 2017); Zack Taylor, 'If Different Then Why? Explaining the Divergent Political Development of Canadian and American Local Governance' (2014) 49 *International Journal of Canadian Studies* 53–79.

⁹ James Aitchison, 'The Municipal Corporations Act of 1849' (1949) 30(2) *Canadian Historical Review* 107–122.

¹⁰ Michael Piva, *The Borrowing Process: Public Finance in the Province of Canada, 1840–1867* (University of Ottawa Press, 1992); Elizabeth Bloomfield, Gerald Bloomfield, and Peter McCaskell, *Urban Growth and Local Services: The Development of Ontario Municipalities to 1981* (Dept. of Geography, University of Guelph, 1983).

¹¹ Tindal et al. (n 8) 10–16.

Manitoba) and the northern territories never had counties, and so single-tier local government is the norm. Similarly, the four Atlantic provinces have either abolished two-tier county government in favour of single-tier municipalities or never had it in the first place. British Columbia and New Brunswick have taken a comprehensive approach to managing inter-local coordination by establishing county-like entities across provincial territory.

Single- and lower-tier municipalities, be they called cities, towns, districts, townships, or villages, are governed by directly elected councils.¹² No province's boundaries correspond to those of a functional metropolitan area, nor is there an autonomous capital district. Ottawa, the capital, is a single-tier city located in the Province of Ontario. Canada therefore does not possess anything akin to a 'city state'.

2.1 *Metropolitan Governance*

As Canada's metropolitan areas have grown larger and more complex, provincial governments have intervened to coordinate the activities of local governments, most often with regard to transit, investment attraction and economic development, and land-use planning.¹³ This has occurred mainly through three mechanisms. First, some provinces have imposed policy frameworks binding on local governments. Ontario has gone the furthest by adopting a set of 'provincial plans' that promote or restrict urban development in various parts of the extended Toronto region. British Columbia and Québec have established province-wide farmland protection plans the effects of which are particularly noteworthy in the periphery of large metropolitan areas.

Secondly, provincial governments have established task-specific agencies of metropolitan territorial jurisdiction to plan, and in some cases operate, transit in Toronto, Montréal, and Vancouver. While Greater Toronto's Metrolinx is controlled directly by the province with no municipal involvement in its governance, Montréal's *Autorité régionale de transport métropolitain* and Vancouver's Translink both provide for formal municipal involvement in planning and project prioritisation. The

¹² Zack Taylor and Alec Dobson, 'Power and Purpose: Canadian Municipal Law in Transition' (2019) 47 *IMFG Papers on Municipal Finance and Governance* 32–33.

¹³ Taylor (n 2) 3.

Ontario, Québec, and Alberta governments have also played a key role in the creation of metropolitan investment attraction agencies for the Toronto, Montréal, and Edmonton regions, respectively.

Other provinces have taken a third, more decentralised approach of reorganising local government institutions to create de facto metropolitan governments (for example, the amalgamations of Windsor in 1935, Winnipeg in 1971, Halifax in 1995, and Ottawa in 2001) or establishing metropolitan institutions that facilitate inter-municipal collaboration.

The most comprehensive example of the latter was the creation of the Municipality of Metropolitan Toronto as an upper-tier unit with 13 lower-tier municipalities in 1954, a model replicated in Winnipeg in 1960. More enduring general-purpose metropolitan bodies are British Columbia's regional districts in Metropolitan Vancouver and Victoria, which were initially established in the mid-1960s and remain in operation today.

The past decade has seen the provincial imposition of compulsory metropolitan boards comprising municipal representatives in Calgary, Edmonton, and Winnipeg. As British Columbia's regional districts, Alberta and Manitoba's metropolitan boards, and Québec's metropolitan communities are constructed as federations of member municipalities, they are generally not viewed as a 'layer' of local government; indeed, this may be a necessary political precondition of their success. Moreover, creating institutional structures that incentivise local initiative to address policy problems and pursue projects that are of metropolitan scope has enabled provinces to transfer political risk to the local sphere.

These three approaches coexist in some instances. Most provinces also provide for municipalities to enter into joint planning and services agreements, or contract with one another for service provision.¹⁴

2.2 *Special-Purpose Bodies and Unincorporated Areas*

In addition to general-purpose municipal corporations, there are a multitude of single-purpose bodies. The most visible is the directly elected school board, which administers primary and secondary public education. In most provinces, school boards receive most or all of their funding from the provincial government and have little autonomy over curricula

¹⁴ Zachary Spicer, *The Boundary Bargain: Growth, Development, and the Future of City-County Separation* (McGill-Queen's University Press, 2016).

and labour relations. Several provinces have abolished, or are planning to abolish, elected school boards and directly administer education services.

Special-purpose bodies coexist with general-purpose municipalities.¹⁵ With the exception of school boards, special-purpose bodies such as transit commissions, watershed management boards, police services boards, and library boards are institutionally linked to municipalities, which appoint some or all of their members and contribute to their budgets. For example, 95 per cent of Ontarians live within the jurisdiction of 36 Conservation Authorities—the boundaries of which are defined by watersheds—that are responsible for floodplain management, natural-resource conservation, and parks and recreation services. Their boards comprise delegates from constituent municipalities.

Although a large portion of the country's territory is unincorporated (that is, not under the jurisdiction of a general-purpose municipal government), only 3.1 per cent of Canadians live in such places.¹⁶ Virtually all residents of most provinces live within municipalities. The exceptions are the provinces of New Brunswick and Prince Edward Island, where 30 per cent do not, and Newfoundland and Labrador and British Columbia, where 10 per cent do not. The latter two provinces have vast hinterlands with historically rooted patterns of sparse settlement in remote areas. Services to residents of unincorporated areas are provided either directly by the provincial government, often through regional or local administrative entities, or by freestanding local special-purpose bodies. British Columbia, for example, maintains 196 task-specific 'improvement districts' with directly elected boards of trustees that may be responsible for diking, irrigation, fire protection, and so on.¹⁷

¹⁵ Jack Lucas, *Hidden in Plain View: Local Agencies, Boards, and Commissions in Canada. IMFG Perspectives 4* (Institute on Municipal Finance and Governance, Munk School of Global Affairs, University of Toronto, 2013).

¹⁶ Taylor and Bradford (n 7) 36.

¹⁷ British Columbia, 'Improvement Districts', www2.gov.bc.ca/gov/content/governments/local-governments/improvement-districts-governance-bodies/improvement-districts (accessed 5 July 2021).

2.3 *Indigenous Governance*

Although they are ‘local’ in the sense of being delineated (mostly) by sub-provincial territories, Indigenous authorities are not considered municipalities or local governments. By virtue of their historical nation-to-nation relationship with the British Crown (and de facto with the federal government), indigenous governments of various types and constitutional status lie outside provincial jurisdiction. Their relationship with nearby municipalities, including through formal agreements, is the subject of increasing scholarly attention.¹⁸

3 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

Canadian municipalities have no independent constitutional status. Under the division of powers in Canada’s 1867 Constitution, local government is an enumerated responsibility of provincial government. Provincial governments therefore have plenary authority over the existence, institutional structures, boundaries, responsibilities, and financing of municipalities. All authority exercised by municipalities is delegated by the provinces through legislation and regulation.

4 GOVERNANCE ROLE OF LOCAL GOVERNMENT

The provincial legal architecture that constitutes municipal government is straightforward. Building on the above-mentioned Baldwin Act, most provinces have adopted one or more general statutes that prescribe municipalities’ institutional structure and authority, typically establishing a hierarchy whereby more populous municipalities are permitted areas of jurisdiction not granted to smaller ones. The acts confer a general grant of authority supplemented by a list of enumerated areas of jurisdiction. Some general municipal acts are wide-ranging, including land-use planning authority, the conduct and financing of municipal elections, and so on, while others hive them off into separate pieces of general legislation.

¹⁸ Christopher Alcantara and Jen Nelles, *A Quiet Evolution: The Emergence of Indigenous-Local Intergovernmental Partnerships in Canada* (University of Toronto Press, 2016).

Some provinces have adopted parallel general acts governing different categories of municipality, typically along urban/rural lines.

As a result of the general statutory approach, there is a high degree of symmetry in the powers afforded to municipalities within each province. This is supplemented by the routine passage of special legislation pertaining to individual municipalities and addressing idiosyncratic circumstances not covered by general legislation.

Several of the core municipalities of large metropolitan areas are not governed by general municipal legislation, but instead derive their existence and authority from a separate act, sometimes referred to as a charter. The City of Vancouver, for example, has been governed by its own legislation since its initial incorporation in 1886. More recently, Winnipeg and Toronto have become legally detached from the general municipal framework, operating under their own legislation.

Other provinces have taken an alternative approach of ‘layering’ additional legal frameworks on top of the general system. Montréal and the Alberta cities of Calgary and Edmonton, for example, are governed by the same municipal laws as other municipalities in their provinces, but also have supplementary powers conferred by special legislation. The real-world impacts of these separate arrangements for large municipalities remain unclear.¹⁹ Revenue-raising powers, for example, tend to be similar for all municipalities in a province regardless of special legislation.²⁰

Over the past 25 years, almost every province has overhauled its municipal legislation to shift from a model of ‘express powers’ to a more flexible ‘spheres of jurisdiction’ one and established a permissive grant of authority enabling municipal councils to act for the well-being of their residents. Most municipalities now enjoy ‘natural person powers’, which enable them to enter independently into contracts with individuals and corporations and establish corporate bodies. Recent jurisprudence has interpreted these powers generously.²¹

¹⁹ Andrew Sancton, ‘The False Panacea of City Charters? A Political Perspective on the Case of Toronto’ (2016) 9(3) *SPP Research Papers*; Harry Kitchen, ‘Is “Charter-City Status” a Solution for Financing City Services in Canada—or Is That a Myth?’ (2016) 9(2) *SPP Research Papers*.

²⁰ One exception is the City of Toronto Act, which permits the city to levy additional taxes but not the major taxes such as income, sales, or fuel taxes.

²¹ Taylor and Dobson (n 12) 12.

In toto, local governments across Canada spent more than CAD 108 billion in 2019, or almost CAD 2900 per capita on average. Expenditures are made on a wide range of services, including water, sewers, and waste management; transport (roads and transit); fire and police protection; health; social services and housing; recreation and culture; and planning and development (see Table 1 for the distribution of expenditures by function).²²

Although the largest expenditure category, on average, is transportation, there are notable differences among the provinces in terms of the distribution of municipal expenditures. In Ontario, for example, local governments spend, on average, one-quarter of their budgets on social services, whereas municipalities in most other provinces spend little or nothing because social services are a provincial responsibility. Ontario municipalities also stand out, along with Nova Scotia's, because they spend more on health than municipalities in other provinces. Québec and

Table 1 Distribution of municipal expenditures in Canada (2019)

<i>Municipal expenditure</i>	<i>Percentage of total municipal expenditures</i>
Transport	18.1
Social protection	13.3
General public services	13.2
Recreation and culture	11.1
Police services	11.0
Fire protection services	5.8
Water supply	4.9
Wastewater management	4.6
Waste management	4.1
Housing and community development	3.3
Health	2.9
Public debt transactions	2.8
Other expenditures	4.9
Total expenditures	100.00

Source Calculated from Statistics Canada, 'Table 10-10-0024-01, Canadian Classification of Functions of Government, by General Government Component' (Government of Canada, 2019)

Note Municipal expenditures include expenditures of municipalities plus other local public institutions, not including school boards.

²² We display 2019 fiscal data to avoid biases introduced by the extraordinary governmental response to the COVID-19 pandemic.

Alberta municipalities spend more than 25 per cent of their total expenditures on transportation, which is considerably more than the average of 18 per cent for the country. British Columbia local governments spend more of their budget on recreation and culture than those in other provinces.

While it is difficult to generalise and available data are not recent,²³ there seems to be a greater tendency to perform functions ‘in-house’ than by contract with private entities in Canada compared to other countries. Although most functions are performed by local government employees, it is fairly common for municipalities to contract out solid waste collection, for example, and some have engaged in public–private partnerships for water and wastewater treatment systems.²⁴

In 2012, municipal and local government enterprise employees totalled 680,000 of the 3.6 million public sector employees (19 per cent). School boards employed an additional 682,000.²⁵ While many regulated professions are represented in municipal employment, including planners, lawyers, engineers, nurses, accountants, police officers, firefighters, and social workers, there is no civil service system. Local governments are free to define job descriptions, organise their internal administrative structures, and hire and fire with little limitation. Municipal employees are generally unionised and enjoy collective bargaining rights.

The executive and legislative body of the municipality is the council. While most heads of council in larger urban municipalities serve on a full-time basis, councillors, even in larger municipalities, often serve part-time and hold outside employment. Council’s role is to legislate and give policy direction to staff, who execute its decisions under its supervision. In most municipalities, the administration is directed by a small leadership team with functional responsibilities and led by a chief administrative officer or city manager. It is common for the head of council to work closely with senior administrators. In some provinces, certain municipal positions, such as the clerk, treasurer, and municipal engineer, are required by statute.

²³ Robert Hebdon and Patrice Jalette, ‘The Restructuring of Municipal Services: A Canada–United States Comparison’ (2008) 26 *Environment and Planning C: Government and Policy* 144–158.

²⁴ Andrew Sancton, *Canadian Local Government: An Urban Perspective* (3rd ed) (Oxford University Press, 2021) 261–266.

²⁵ Statistics Canada, ‘Table 10-10-0025-01. Public Sector Employment, Wages and Salaries, Seasonally Unadjusted and Adjusted’ (Government of Canada, 2012).

Local elected officials are held accountable through elections, which are held every four years independently of provincial and federal elections. While in some provinces non-resident property owners are entitled to vote in local elections, the municipal franchise is in effect identical to that at the provincial or federal level: Canadian citizens aged 18 or over. Councillors are today elected from single-member wards in most larger municipalities. At-large election—that is, by the total municipal electorate rather than by ward—is more common in smaller municipalities, with the exception of British Columbia where it is the norm.

The head of council (called the mayor in cities and towns and the reeve in rural townships) is directly elected at-large except in many municipalities in Newfoundland and Labrador. In Ontario and Québec, upper-tier municipal councils comprise delegates of member lower-tier municipalities' councils, and the head of council (called the warden in counties and the chair in Ontario's regional municipalities) is generally selected by council members, although some are directly elected. In all cases, heads of council sit as voting members of the council and have few powers beyond those of other councillors, including the ability to declare emergencies. They have no veto or separate role in budgeting. Outside British Columbia, they have no authority to hire and fire staff. The principal roles of the head of council are to represent the municipality, initiate proposals, and broker consensus among the councillors.

Local government is far more accessible to the public than other levels. By legal requirement, all council deliberations are open to the public except for *in camera* meetings held under prescribed circumstances. Residents are entitled to give deputations to council and council committees. By law or custom, many policy development processes entail extensive public consultation and open meetings.

5 FINANCING LOCAL GOVERNMENT

Canadian local governments have no constitutional revenue-raising powers: they are limited to the taxing authority that is delegated to them by provincial governments.²⁶ Provincial governments determine

²⁶ Lisa Philipps, Enid Slack, Lindsay Tedds, and Heather Evans, 'Introduction', in Lisa Philipps, Enid Slack, Lindsay Tedds, and Heather Evans (eds) *Funding the Canadian City* (Canadian Tax Foundation and Institute on Municipal Finance and Governance, 2019) 1–20.

what responsibilities are assigned to local governments, which revenues they can raise, and how much they can borrow. Municipalities are not permitted to budget for an operating deficit and if they do, they are required to cover it in the next fiscal year.

Table 2 provides a breakdown of Canadian municipalities' main revenue sources. Overall, 80 per cent of revenues are raised locally, with the remainder coming from federal and provincial transfers. On average across the country, the property tax accounts for more than 46 per cent of municipal revenues and user fees, for almost 23 per cent.

As with expenditures, there is wide variation in revenue sources. User fees represent a somewhat smaller percentage of municipal revenues in Québec, for example, where property taxes (not user fees) are largely used to pay for water. Provincial and federal transfers range from less than 9 per cent of revenues in British Columbia municipalities to a high of 47 per cent in Prince Edward Island. Transfers account for more than 20 per cent of total municipal revenues in Ontario, where social services are cost-shared with the provincial government. Lot levies (also known as development charges), which are used to pay for growth-related capital costs associated with new development, are significant in Ontario, Saskatchewan, Alberta, and British Columbia. Land transfer taxes (included in property-related taxes) are levied by municipalities in

Table 2 Distribution of municipal revenues in Canada (2019)

<i>Municipal revenue source</i>	<i>Percentage of total municipal revenues</i>
Recurrent property tax	46.0
Other taxes on property	1.5
Taxes on goods and services	0.7
Lot levies and motor vehicle taxes*	7.2
User fees	22.7
Other revenue	3.3
Total own-source revenue	81.4
Intergovernmental transfers	18.6
Total revenue	100.0

Source Calculated from Statistics Canada, 'Table 10-10-0020-01, Canadian Government Finance Statistics for Municipalities and Other Local Public Administrations (X 1,000,000)' (Government of Canada, 2019)

* The actual category for lot levies and motor vehicle taxes is 'tax on use of goods and permission to use goods or perform activities'

Québec and Nova Scotia, and by the City of Toronto. Some local governments have additional taxing powers, such as accommodation and vehicle taxes, but these represent a relatively small proportion of revenues.²⁷

Although it has been suggested that local governments suffer from a vertical fiscal imbalance in Canada, existing data do not permit a calculation of its extent. With respect to taxation, municipal governments raised only 10 per cent of all taxes collected in 2020; the federal government accounted for 45 per cent, and provincial governments, the rest.²⁸ In terms of expenditures, the federal government accounts for only 29 per cent of total government expenditures, and provinces and municipalities combined account for 71 per cent, but we do not know the distribution between provincial and local governments.²⁹ Local governments own about 60 per cent of public infrastructure.³⁰ These numbers point to vertical fiscal imbalance, but better data are needed to confirm it.

5.1 *Property Taxes*

The single-largest municipal revenue source is the property tax. Property taxes are governed by provincial legislation, so their application differs across provinces.³¹ In some provinces, the assessment of property values for tax purposes is determined by the province or a provincial agency;

²⁷ For a breakdown of revenues for the largest city in each province, see Jean-Philippe Meloche and François Vaillancourt ‘Municipal Financing Opportunities in Canada: How Do Cities Use Their Fiscal Space?’ (2021) 52 *IMFG Papers on Municipal Finance and Governance*.

²⁸ Statistics Canada, ‘Table 10-10-0015-01, Statement of Government Operations and Balance Sheet, Government Finance Statistics (X 1,000,000)’ (Government of Canada, 2020), <https://doi.org/10.25318/1010001501-eng> (accessed 5 July 2021).

²⁹ Thomas Hachard, ‘It Takes Three: Making Space for Cities in Canadian Federalism’ (2020) 31 *IMFG Perspectives*. Statistics Canada provides consolidated provincial-local expenditure and revenue data but does not separate provincial governments from local governments.

³⁰ Infrastructure Canada, ‘Investing in Canada: Canada’s Long-Term Infrastructure Plan’ (Government of Canada, 2018), www.infrastructure.gc.ca/site/alt-format/pdf/plan/icp-pic/1C-InvestingInCanadaPlan-ENG.pdf (accessed 5 July 2021).

³¹ For a detailed account of the characteristics of the property tax in different provinces and an examination of the broader issues around property taxation in Canada, see Harry Kitchen, Enid Slack, and Tomas Hachard, *Property Taxes in Canada: Current Issues and Future Prospects* (Institute on Municipal Finance and Governance, Munk School of Global Affairs, University of Toronto, 2019); Harry Kitchen and Almos Tassonyi, ‘Municipal

in others, it is determined locally. Reassessments may be done annually (as in British Columbia) or every few years. In terms of tax rates, in some provinces (Alberta, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador), municipalities are free to set their own tax rates without provincial interference. In others, the provincial government directly controls or limits tax rates on some property classes. Residents and businesses benefit from different exemptions, tax incentives, tax breaks, and other schemes to address the supposedly regressive and volatile nature of the property tax, depending on the province. All but two provinces levy a provincial property tax, in some cases to pay for education.

Some have argued that property taxes are sufficient to cover the costs of municipal services,³² but others have suggested that local governments in Canada would benefit from a broader mix of taxes.³³ In particular, a mix of taxes would give local governments more flexibility to respond to local conditions such as changes in the economy, demographic changes, and changes in expenditure needs. The two taxes that have the potential to bring in the most revenues for local governments are income and sales taxes, but neither of these taxes is permitted at the local level anywhere in Canada.³⁴

Available data do not enable us to determine what proportion of transfers to local governments is federal versus provincial. Information from selected provinces, however, indicates that the bulk of transfers tend to be from the provincial government. The vast majority of provincial transfers are conditional, but most provinces also give unconditional grants to local governments in the form of direct grants, equalisation, or revenue-sharing.³⁵

Taxes and User Fees', in H Kerr, K McKenzie, and Jack Mintz (eds) *Tax Policy in Canada* (Canadian Tax Foundation, 2012).

³² Bev Dahlby and Melville McMillan, 'What Is the Role of Property and Property-Related Taxes? An Assessment of Municipal Property Taxes, Land Transfer Taxes, and Tax Increment Financing', in Philipps, Slack, Tedds and Evans (eds) (n 26) 45–73.

³³ Harry Kitchen and Enid Slack, 'More Tax Sources for Canada's Largest Cities: Why, What, and How?' (2016) 27 *IMFG Papers on Municipal Finance and Governance*.

³⁴ A comparison of Toronto and seven other international cities shows that, with the exception of London, UK, the major cities have more tax options than Toronto. See Enid Slack, *How Much Local Fiscal Autonomy Do Cities Have? A Comparison of Eight Cities Around the World* (Institute on Municipal Finance and Governance, University of Toronto, 2017).

³⁵ Richard Bird and Enid Slack, 'Provincial-Local Equalization in Canada: Time for a Change?' (2021) 57 *IMFG Papers on Municipal Finance and Governance*.

Direct grants are provided in six provinces and range from flat amounts and per capita grants to partial rebates of the provincial portion of the Harmonised Sales Tax, a federally administered value-added tax. Six provinces provide equalisation grants to municipalities. In Nova Scotia and New Brunswick, the formula explicitly recognises both expenditure need and fiscal capacity; the other provinces take account only of fiscal capacity, although population size is sometimes used as a proxy for expenditure need. Three provinces have provincial-local revenue-sharing systems. British Columbia shares traffic fine revenue and provincial gaming revenues; Saskatchewan shares provincial sales tax revenues on a per capita basis; and Québec shares natural-resources royalty revenue with municipalities that have mining, oil, and gas production sites and, since 2021, provides a share of the difference between the value of one percentage point of the Québec sales tax in the most recent year and the value of one percentage point for the reference year 2017–2018.³⁶

5.2 *Federal Transfers*

Although the federal government has no constitutional authority over local government, it can give money to cities and has been doing so increasingly. Since the early 2000s, the federal government has established conditional grant programmes that channel funds, sometimes directly and sometimes through the provinces or municipal associations, to municipalities and other local partners for housing, transit, economic development, climate change adaptation projects, and indigenous services. The largest of these programmes, the post-2015 ‘Investing in Canada’ plan, which is to disburse CAD 180 billion over a decade, is directed towards infrastructure broadly defined.³⁷ In parallel, the federal government is funding affordable housing through a 10-year, CAD 40-billion National Housing Strategy, and participates in ‘local immigration partnerships’ that bring all orders of government and local service agencies together to assist in

³⁶ Gouvernement du Québec. 2022. *Partenariat 2020–2024: Pour des municipalités et des régions encore plus fortes*. Québec: Affaires municipales et habitation. https://www.mamh.gouv.qc.ca/fileadmin/publications/organisation_municipale/accord_partenariat/Partenariat2020-2024_Entente.pdf (accessed 24 February 2022).

³⁷ Neil Bradford, ‘A National Urban Policy for Canada? The Implicit Federal Agenda’, *Canadian Regional Development Policy: Flexible Governance and Adaptive Implementation* (2018) 9–10.

immigrant integration. The federal government also engages with municipalities in areas under its exclusive jurisdiction. For example, Urban Programming for Indigenous Peoples channels federal funds to local partnership organisations that set priorities and coordinate services.

In addition to these grants, the federal government provides block transfers for municipal infrastructure.³⁸ The Canada Community-Building Fund (formerly known as the Gas Tax Transfer) provides permanent funding for local infrastructure investments.³⁹ Funds are allocated on a per capita basis, with payments flowing to designated signatories—provinces, territories, municipal associations, and the City of Toronto. Conditions are modest: funds must be spent on municipal infrastructure, provinces must not claw back their own funding, and municipalities must demonstrate progress towards federally defined sustainability objectives.

6 SUPERVISING LOCAL GOVERNMENT

All provinces have established cabinet-level departments that monitor municipal activities and finances and provide policy support. Most have established administrative tribunals that rule on appeals of municipal land-use decisions. In rare circumstances, provincial governments have dismissed locally elected councils and installed administrators to resolve problems of fiscal insolvency or political dysfunction. Compared to American states, provincial governments are highly involved in municipal affairs. Provincial supervision of municipal finances, incorporation, and boundary change, among other things, has been, and may continue to be, an effective means of adaptation to changing circumstances, although it is sometimes arbitrary or politically motivated, or perceived as such.

6.1 *Municipal Borrowing*

As provinces are the ultimate guarantors of municipal debt, they developed an early interest in supervising municipal solvency. During the Great

³⁸ For a description of programmes, see www.infrastructure.gc.ca/prog/programs-inf-summary-eng.html (accessed 5 July 2021).

³⁹ Erika Adams and Alan Maslove, ‘The Federal Gas Tax Cession: From Advocacy Efforts to Thirteen Signed Agreements’, in Caroline Andrew and Katharine Graham (eds) *Canada in Cities: The Politics and Policy of Federal-Local Governance* (McGill-Queen’s University Press, 2014) 102–130.

Depression, provincial governments dismissed the councils of insolvent municipalities and administered them directly. As a result of this experience, all provinces set statutory limits on how much municipalities can borrow.⁴⁰ In most provinces, a formula-based approach is used; in others, restrictions occur through provincial approval. For example, in Newfoundland and Labrador and Québec, ministerial approval is required for borrowing; in Saskatchewan, borrowing restrictions are established by the Saskatchewan Municipal Board upon application.

Formulas vary across provinces.⁴¹ Generally, provinces impose limits on debt servicing costs and/or the amount of debt. For example, debt service costs cannot exceed 10 per cent of own-source revenues in Nova Scotia, 20 per cent of annual revenue in Manitoba, 25 per cent of own-source revenues in British Columbia and Ontario (with the exception of the City of Toronto which faces no provincial borrowing limits), and 25 per cent or 35 per cent of revenues in Alberta, depending on the municipality.⁴² Limits on the amount of debt are 2 per cent of the assessed value of property in New Brunswick, 7 per cent of municipal assessment in Manitoba, and 1.5 or two times the amount of local revenue excluding capital transfers depending on the municipality in Alberta. In British Columbia, the aggregate debt of the City of Vancouver cannot exceed 20 per cent of assessed value based on average assessment for the previous two years. Its own policy limit is 10 per cent of operating expenditures, however.

To encourage municipalities to borrow more, several provinces have lowered the cost of borrowing through pooling of municipal debt. Municipal finance authorities have been established in most provinces. Examples include the Municipal Finance Authority of British Columbia, the Municipal Capital Borrowing Board in New Brunswick, Nova Scotia Municipal Finance Corporation, and the Newfoundland and Labrador Municipal Financing Corporation. In Ontario, Infrastructure Ontario,

⁴⁰ Richard Bird and Almos Tassonyi, 'Constraining Subnational Fiscal Behavior in Canada: Different Approaches, Similar Results?', in Jonathan Rodden, Gunnar Edkeland, and Jennie Litvack (eds) *Fiscal Decentralisation and the Hard Budget Constraint* (MIT Press, 2003) 85–133.

⁴¹ Enid Slack and Almos Tassonyi, 'Financing Urban Infrastructure in Canada: Overview, Trends, and Issues', in Richard Bird and Enid Slack *Financing Infrastructure: Who Should Pay?* (McGill-Queen's University Press, 2017) 21–53.

⁴² The City of Toronto imposes its own limit of 10% of property tax revenues.

which is a crown corporation with a mandate to manage large scale infrastructure projects, operates similarly to an infrastructure bank. In some provinces, such as Nova Scotia and New Brunswick, all municipalities must borrow through the provincial authority. In other provinces, larger cities are not required to borrow through the provincial authority. For example, Winnipeg, Regina, Saskatoon, Edmonton, Calgary, and Vancouver issue their own debt rather than going through the provincial agencies.

Provinces also supervise incorporation and boundary change. Ontario transferred this oversight function to an appointed board early in the twentieth century, and most other provinces followed its example. Oversight of incorporation and boundary change came to be exercised by ministries of municipal affairs in most provinces after the Second World War.

Ontario's imposition of a metropolitan amalgamation on the bankrupt City of Windsor and its neighbours in 1930 signalled a shift from passive to active supervision of incorporation and boundary change.⁴³ Several provinces have restructured local government since the Second World War.⁴⁴ The creation of the two-tier Metropolitan Toronto government in 1954 set the template for the subsequent reconstruction of county governments in growing urban areas in the 1960s and 1970s across Ontario and Québec, which later amalgamated many of these units into single-tier municipalities in the 1990s and 2000s. New Brunswick abolished its counties in 1967, taking over service delivery in unincorporated areas directly. Ontario, Manitoba, New Brunswick, and Nova Scotia have at various times promoted or imposed the merger of mostly small and rural municipalities into larger units. The result of these actions has been an overall reduction in the number of municipalities across the country even as the national population has grown.

⁴³ Larry Kulisek and Trevor Price, 'Ontario Municipal Policy Affecting Local Autonomy: A Case Study Involving Windsor and Toronto' (1988) 6(3) *Urban History Review* 255–270.

⁴⁴ Joseph Garcea and Edward LeSage, *Municipal Reform in Canada: Reconfiguration, Re-Empowerment, and Rebalancing* (Oxford University Press, 2005).

7 INTERGOVERNMENTAL RELATIONS

While the federal and provincial governments possess the fiscal resources to redistribute wealth across space and the expertise and technical knowledge to craft sophisticated policies, local governments own and operate most urban infrastructure, regulate land use, and deliver a wide range of local services. Many aspects of Canadian local governance are therefore multilevel in nature, although this intergovernmental division of labour is not always explicit. Many federal and provincial policies and programmes that have disproportionate impacts in cities or rural areas are framed in general terms and are not conventionally thought of as ‘urban’ or ‘rural’ policies.⁴⁵ By virtue of their constitutional jurisdiction over municipal affairs, provincial governments lead most explicit policy activities directed towards localities. As a result, municipalities’ primary intergovernmental relationship is with the provincial government, although federal engagement with local actors is increasing in a variety of policy areas.

Provinces are involved in almost every aspect of municipal service delivery through cost-sharing, policy-making, regulation, or other forms of entanglement. In Ontario, for example, the cost-sharing arrangements between the provincial government and municipalities have been described as a ‘tangled web’ of overlapping obligations.⁴⁶ While some authorised municipal functions are exercised at their own initiative and funded by own-source revenues, others are mandated by the provincial government. Provinces contribute to municipal budgets through unconditional and conditional grants, the latter influencing local priorities. As a result, municipalities play a dual role: in some policy domains, they act as agents of provincial governments, while in others they exercise considerable discretion.

Municipalities interact with provincial departments on a wide range of administrative issues. Planning and fiscal matters are overseen by ministries of municipal affairs; however, local governments frequently also interact with departments responsible for housing, environmental protection, natural resources, agriculture, and transportation, among others.

⁴⁵ Bradford (n 37).

⁴⁶ André Côté and Michael Fenn, ‘Provincial-Municipal Relations in Ontario: Approaching an Inflection Point’ (Institute on Municipal Finance and Governance, University of Toronto, 2014).

These interactions are typically between administrators rather than elected officials. Mayors may interact with provincial legislators or ministers to raise issues of political importance to them, or to unblock stalled administrative processes. The provincial–municipal relationship is essentially hierarchical. Despite occasional political controversy, however, the general tenor of provincial–local relations is cooperative in most provinces.

Although it may be beneficial to disentangle provincial and municipal involvement by assigning responsibility to one government or the other, some services may benefit from greater coordination and cooperation among orders of government.⁴⁷ The question of who does what has been debated from time to time in Canada, with the pendulum swinging between entanglement and disentanglement in the full range of policy areas.

Municipalities also engage with provincial governments collectively through municipal associations.⁴⁸ These associations employ professional staff who collect information from and provide support to members, and lobby on behalf of their members for changes to provincial laws, regulations, and fiscal arrangements. Premiers and ministers often speak at their annual meetings, sometimes using the occasion to announce policy changes. Provinces also consult with associations as representatives of their sector. In some provinces there is a single association, while in others separate organisations represent rural and urban municipalities or French and English municipalities. There is a perennial tension within these organisations between large and small municipalities that have quite different needs. Montréal and Toronto have at times chosen not to participate in province-wide associations, preferring instead to interact with provincial governments bilaterally, or in concert with other large municipalities.

As the federal government has no constitutional responsibility for local government, and provincial governments jealously guard their jurisdiction, no enduring ‘municipal affairs’ ministry, department, or agency has

⁴⁷ Enid Slack ‘Cities in Canadian Fiscal Federalism: The Forgotten Partner’, in *Fiscal Federalism Conference* (University of Ottawa, 2021).

⁴⁸ Alison Shott, ‘Municipal Associations, Membership Composition, and Interest Representation in Local-Provincial Relations’ (Dept. of Political Science, University of Western Ontario, 2015).

emerged at the national level.⁴⁹ Rather, municipalities interact with functional departments charged with administering specific programmes to which they are parties. The Federation of Canadian Municipalities (FCM) advocates on behalf of its 2000 member municipalities.

There is precedent for agreements between individual municipalities and the federal government, sometimes with provincial participation, but these are exceptional events. For example, the federal government's extensive holdings of centrally located derelict former railway and port lands have led to intense and sustained intergovernmental interaction directed towards urban redevelopment in Vancouver, Toronto, and Montréal.⁵⁰ Federal–municipal urban development agreements with Vancouver and Winnipeg targeting specific localised social problems were neglected or not renewed in the 2000s.⁵¹

The federal infrastructure and housing grant programmes mentioned above are generally implemented through bilateral agreements with provinces, which delegate operational decision-making authority to recipient municipalities. These new arrangements are notable for their higher federal contributions than previously and the greater autonomy afforded to local governments within federal guidelines and reporting requirements. They are also notable for their inclusion of local non-governmental actors in decision-making and service delivery. In this sense, they represent forays into multilevel governance rather than traditional intergovernmental relations.

⁴⁹ Zachary Spicer, 'The Rise and Fall of the Ministry of State for Urban Affairs: A Re-Evaluation' (2011) 5(2) *Canadian Political Science Review* 117–126; Neil Bradford *Whither the Federal Urban Agenda? A New Deal in Transition* (Canadian Policy Research Networks, 2007). There have been attempts in the past to establish federal ministries to deal with local governments, such as the Ministry of State for Urban Affairs in the 1970s and the Ministry of State for Infrastructure and Communities in 2004, but both of these were short-lived.

⁵⁰ Gabriel Eidelman, 'Failure When Fragmented: Public Land Ownership and Waterfront Redevelopment in Chicago, Vancouver, and Toronto' (2016) 54(4) *Urban Affairs Review* 697–731; Robert Young and MC Richa, *Federal Property Policy in Canadian Municipalities* (McGill-Queen's University Press, 2013).

⁵¹ Neil Bradford, 'Policy in Place: Revisiting Canada's Tri-Level Agreements' (2020) 50 *IMFG Papers on Municipal Finance and Governance*.

8 POLITICAL CULTURE OF LOCAL GOVERNANCE

There is a long history of understanding local governments as a form of public enterprise whose shareholders are the property taxpayers to whom they provide services. This perception of local government as essentially apolitical has been reinforced by the enduring local reliance on the property tax and the relatively recent extension of the municipal electoral franchise to non-property-owning citizens. Following the nineteenth-century British model, the local franchise was tied to property ownership and remained so in most provinces until well after the Second World War.

This does not mean there is no conflict in local politics. Decisions regarding land use, infrastructure projects, funding and service levels, and the closing of facilities are often the subject of fierce debate, especially when they affect residents' properties and neighbourhoods. Neighbourhood associations and issue-based groups are common in larger cities and play an important role in shaping policy debates.⁵² Public meetings on high-profile issues are well attended, and the media provide significant 'city hall' coverage in the larger cities. Citywide or regional public-private or civic networks are increasingly influential agenda-setting actors.

Participation in municipal elections, which are decoupled from those at other levels, is relatively low. Recent federal and provincial turnout rates have been between 60 and 80 per cent. Average turnout rates over the past decade are 47 per cent in Toronto, 41 per cent in Montréal, and 39 per cent in Vancouver. A recent analysis of the 100 largest municipalities in Canada found an average turnout rate of 36 per cent over the last three election cycles.⁵³

While federal and provincial parties sometimes lend their electoral machinery to local candidates, local parties are not linked to provincial or federal parties. Local politics is not viewed as an alternative venue of federal or provincial partisan conflict. Municipal elections are officially non-partisan everywhere except Québec and British Columbia, where provincial law enables candidates to campaign or raise funds collectively

⁵² Alexandra Flynn, 'Filling the Gaps: The Role of Business Improvement Areas and Neighbourhood Associations in the City of Toronto' (2019) 45 *IMFG Papers on Municipal Finance and Governance*.

⁵³ Sandra Breaux, Jérôme Couture, and Royce Koop, 'Turnout in Local Elections: Evidence from Canadian Cities, 2004–2014' (2017) 50(3) *Canadian Journal of Political Science* 699–722.

as parties or electoral organisations. With some exceptions, these organisations are often short-lived. Perhaps the most enduring local party is Vancouver's ironically named Non-Partisan Association, founded in 1937.⁵⁴ In Québec, local parties are generally electoral vehicles for mayoral candidates and lose cohesion between elections and disappear when particular personalities leave the scene. While mayors and councillors of nearby municipalities may share political affinities, there is no local party integration across municipal boundaries in British Columbia or Québec metropolitan areas.

9 COVID-19'S IMPACT ON THE ROLE OF LOCAL GOVERNMENT

Local governments have played an essential coordinating and delivery role in the response to the Covid-19 pandemic, generating profound expenditure pressures. They have had to enforce physical distancing measures, impose passenger limits on transit vehicles, find additional spaces for the homeless population—in part by repurposing municipal facilities or leasing private hotels—and address IT issues so that employees could work from home. At the same time, they have continued providing solid waste, protective, and other services. Additional costs have been offset somewhat by closing municipal facilities (such as libraries and recreation centres), reducing travel budgets, and so on.

The real hit to local governments, however, has been to revenues. Many municipalities have allowed taxpayers to defer property tax payments for 60 or 90 days without penalty or interest payments. User fee revenues from transit have declined significantly, especially in large cities where ridership fell by as much as 90 per cent. Parking, recreational programmes, and other municipal service revenues also declined. As noted, local governments are not permitted to budget for operating deficits. Many ended 2020 with large deficits due to unanticipated revenue loss. In response, they have tapped contingency reserves, deferred capital investment, laid off employees, and raised property taxes. The federal government has transferred billions in assistance to provinces to help municipalities to cover deficits. Specific funds were also allocated,

⁵⁴ Andrea Smith, 'The CCF, NPA, and Civic Change: Provincial Forces Behind Vancouver Politics 1930–1940' (1982) 53 *BC Studies* 45–65.

on a matching basis with the provinces, to offset transit system revenue losses.

Covid-19 has brought to light Canada's vertical fiscal imbalance. Although most of the pandemic's impact has been felt by provinces and municipalities, the federal government has the greatest fiscal and borrowing capacity. Some have called for a clarification of the intergovernmental division of responsibilities—who does what and how to pay for it.⁵⁵ On a positive note, the pandemic has resulted in unprecedented collaboration among all three orders of government, regardless of political affiliation. Nevertheless, municipalities remain outside the traditional machinery of federal–provincial relations.⁵⁶

10 EMERGING ISSUES AND TRENDS

Local autonomy is on the agenda. As Canada has become more urbanised and an increasing share of the population resides in large, socially diverse, and economically and culturally vibrant metropolitan areas, big-city politicians and activists have demanded an independent constitutional status for municipalities. The constitutional entrenchment of a new order of government is highly unlikely for a variety of reasons, including the high bar set by the amending formula. Some have proposed entrenching an independent status for municipalities in provincial constitutions, but the mechanisms to do so are debatable.⁵⁷

The tension between provincial constitutional supremacy and local desires for greater autonomy will continue, occasionally inflamed by unilateral provincial actions in the municipal sphere that local leaders and citizens believe to be arbitrary and intrusive. While some argue that constitutional status for Canadian municipalities and protection from provincial governments would improve local governance, it should not be forgotten that some fiercely resisted provincial interventions, such as

⁵⁵ Enid Slack and Tomas Hachard, 'Now, with a Deal Made to Help Cities, the Work Begins' (2020) *Policy Options*. <https://policyoptions.irpp.org/magazines/august-2020/now-with-a-deal-made-to-help-cities-the-work-begins/>.

⁵⁶ Ibid.

⁵⁷ Provincial constitutions are understood to comprise the portions of the federal constitution that pertain to them (which can be amended through bilateral agreement), as well as British colonial legislation, treaties, and unwritten conventions that bear on their creation and union with Canada.

imposed systems of metropolitan coordination and rural land protection, have yielded positive long-term benefits. Provincial supervision of debt financing and the balanced budget requirement mean that there cannot be any visible fiscal crisis at the local level. Still, provincial superintendence has likely also inhibited local policy innovation.

A second issue on the agenda is municipal fiscal health and the infrastructure deficit. Estimating the fiscal health of municipalities in Canada is difficult because of a lack of comparable data. Nevertheless, some have suggested that, on average, Canadian municipalities are doing reasonably well financially.⁵⁸ An analysis of the fiscal health of the City of Toronto before the pandemic, for example, suggested that it was sound by most measures—expenditures per capita adjusted for inflation had not increased much over the last decade, property taxes per capita adjusted for inflation have been declining, and debt is manageable for a city of its size.⁵⁹ Other major cities exhibit the same trend.⁶⁰

However, municipalities' apparent fiscal health may not reflect their overall health, which has less to do with balanced budgets (which is legally required) than with the quantity and quality of services they provide and the state of their infrastructure. If infrastructure is falling apart, the overall health of the city is in trouble even if the operating budget is balanced. Canadian cities contend that they have insufficient resources to maintain their infrastructure. Perhaps the most cited estimate of the infrastructure deficit is CAD 123 billion, by the Federation of Canadian Municipalities in 2007. For various reasons, this number is questionable and, at the very

⁵⁸ Richard Bird and Enid Slack, *Is Your City Healthy? Measuring Urban Fiscal Health* (Institute on Municipal Finance and Governance and Institute of Public Administration of Canada, 2015). Others have argued that local governments are in better fiscal shape than most provinces. See William Robson and Miles Wu, 'Puzzling Plans and Surprise Surpluses: Canada's Cities Need More Transparent Budgets' (2021) *CD Howe Institute Commentary* 592. They argue that many large municipalities run an aggregate budget surplus. But this surplus, derived from accrual accounting, largely comprises physical assets that cannot easily be sold (for example, transit infrastructure) and mandated specific-purpose reserve funds that cannot be used to offset operating deficits. See Financial Accountability Office of Ontario, *Ontario Municipal Finances: An Overview of Municipal Budgets and an Estimate of the Financial Impact of the Covid-19 Pandemic* (Queen's Printer for Ontario, 2020).

⁵⁹ Enid Slack and André Coté, 'Is Toronto Fiscally Healthy? A Check-up on the City's Finances' (2014) 7 *IMFG Perspectives*; Slack and Coté, 'Is Toronto Fiscally Healthy? A Check-up on the City's Finances' (2018) *IMFG Perspectives*.

⁶⁰ Bird and Slack (n 35) 58.

least, dated.⁶¹ Nevertheless, there is consensus that greater investment in major infrastructure is needed, especially transit and affordable housing.

The federal government is likely to be the key player in addressing the infrastructure deficit. One way to address the fiscal imbalance is for the federal government to increase its financial commitments under the Community-Building Fund and other transfer programmes. In the longer term, the imbalance calls for a clarification of expenditure responsibilities among the orders of government and then a determination of how to pay for those expenditures. The result of this exercise may mean uploading some local expenditures to the provincial or federal governments, for example, or increasing the taxing authority of local governments.

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⁶¹ See Slack and Tassonyi (n 41) 41.