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The Impact of Legislative Reforms to Canadian Federalism on Toronto's Ability to Reduce Poverty

By Jake Schabas

Abstract

In the past decade, the Canadian city of Toronto has undergone radical internal shifts in its socioeconomic geography and governance structure while simultaneously emerging on the world stage as an extremely livable and financially successful city. These trends have been accompanied by growing poverty concentrated in the inner suburbs at the municipality's boundaries. In 2006, the provincial government passed the *Stronger City of Toronto for a Strong Ontario Act* explicitly recognizing Toronto as a mature order of government requiring commensurate responsibilities and fiscal authority. This paper critically examines the impact of this act on municipal efforts to reduce inner suburban poverty in the wake of the Toronto's new place in Canadian federalism.

Keywords: COTA, Canadian federalism, Toronto Tower Renewal, Transit City

Introduction

In the past decade, the Canadian city of Toronto has undergone radical internal shifts in its socioeconomic geography and governance structure at the same time that it emerged on the world stage as an extremely livable and financially successful city. Toronto is North America's fifth largest 'megacity,' it ranks twelfth on the Global Financial Centres Index, and it is consistently recognized as one of the world's most livable cities by *The Economist* magazine (Financial Centre Futures 2010). However, despite this rising international profile, poverty rates in Toronto are growing rapidly, particularly in areas near the City's¹ boundaries known as the 'inner suburbs.' Recognition that the existing Canadian federalist system does not provide the City of Toronto with adequate legislative power to address this new spatial arrangement of poverty is likewise building. In 2006, the Province passed the *Stronger City of Toronto for a Stronger Ontario Act* (COTA), a deliberate attempt to strengthen the authority of Toronto's municipal government. This paper will explore to

1. The capitalized 'City' here refers to Toronto as a municipality, whereas 'city' refers to an urban form.

what extent these changes affected the City of Toronto's ability to carry out policies addressing inner suburban poverty through an analysis of two City programs: Mayor David Miller's Tower Renewal and Transit City. The paper will go on to argue that despite their stated intentions, these reforms do not go far enough in providing the City with sufficient legal and fiscal autonomy to alleviate inner suburban poverty.

History and Context

Canadian cities, like their counterparts in the United States, have historically had little formal legal standing. The 1867 *British North America Act* that established the operation and structure of Canadian federalism defined municipalities as creatures of the Province (Cote 2009). The 2005 COTA challenged this configuration by creating "a framework of broad powers for the City which balances the interests of the Province and the City and which recognizes that the City must be able to do the following things in order to provide good government..." (Government of Ontario 2005). The *Act* adopted a "permissive" rather than "prescriptive" powers approach, meaning that the City of Toronto can pass by-laws on issues not specifically prohibited by the Province (Cote 2009). This provided the City with many new powers, such as extending council terms, redistricting, and increasing the Mayor's power, yet it prohibited creating any major new revenue sources and left social assistance programs and housing a City responsibility (Government of Ontario 2005).

These limitations raise the question of whether COTA provided the City with sufficient powers to significantly improve its ability to reduce poverty in its inner suburbs. Brought to prominence by a 2004 United Way study *Poverty by Postal Code: The Geography of Neighborhood Poverty*, the authors found that between 1981 and 2001 census tracts defined as 'poor' or 'very poor' had increased from 16 to 108 in recently amalgamated parts of Toronto at the city's edge (United Way 2004). These findings presented new challenges for municipal poverty reduction programs, which were predominantly located in the downtown core and far from the isolated inner suburbs. *Poverty by Postal Code* provoked the City to identify thirteen priority neighborhoods in the inner suburbs to receive increased social services (see attached map [Figure 1] in Appendix). These priority neighborhoods would serve as a framework for two innovative, place-based efforts under Mayor David Miller to use the new powers imparted by COTA to address poverty in Toronto's inner suburbs.

Mayor's Tower Renewal

"Toronto is a city of towers," states the June 1, 2010 *Tower Renewal Implementation Draft Book* (City of Toronto 2010b). Ostensibly an

environmental initiative to improve the energy efficiency of post-war high-rise residential buildings through retrofits, the Mayor's Tower Renewal program is a clear example of how the legislative limitations set out in COTA guided municipal policies for tackling poverty issues in Toronto (City of Toronto 2010b). Between 1945 and 1984 there were 1189 multi-unit residential buildings over eight stories tall built in clusters throughout the City of Toronto — the greatest number in North America outside of New York City (City of Toronto 2010a). Originally built to house Toronto's young professionals, today most of these concrete frame towers are located in the city's thirteen priority neighborhoods (see map [Figure 2]) and are home to mostly new immigrants and low-income families (City of Toronto 2010a; 2010b). In response to these socio-demographics, Tower Renewal projects included land use reforms to increase retail, social services, and employment opportunities, to spur local economic development, and to encourage walkable, healthy neighborhoods (City of Toronto 2010b).

Complicating matters is that only a third of the targeted towers are publicly owned; approximately 800 towers are controlled by private owners who need convincing to participate in Tower Renewal (City of Toronto 2010b). The City therefore requires large sums of money, approximately \$2 billion over 15 years, to make Tower Renewal retrofits possible and attractive to private owners (City of Toronto 2010a). Using the new powers set out in section 148 of COTA, the City plans to establish a Tower Renewal Corporation to finance individual retrofits using bonds, where all projects are grouped together to ensure that all retrofits are funded and that the risk to investors on individual renewal plans is spread among all projects (City of Toronto 2010a). Yet to make the bonds attractive to investors, the City needs to over-collateralize the capital pool by providing a small amount of equity (a maximum of \$20 million annually) to give the bondholders extra protection—but that requires provincial approval (City of Toronto 2010a). Provincial approval is also needed to allow the City to give Tower Renewal loans "priority lien" status that would secure them to a building's property taxes, therefore allowing owners to avoid second mortgages or higher mortgage payments and increasing the project's appeal to private owners (City of Toronto 2010a).

The creation of a corporation, the disposition of property taxes, and the need for provincial approval all reveal the extent to which COTA has both empowered the City while still failing to give it adequate revenue raising mechanisms. Although COTA gave the City the power to establish a corporation, it withheld authority to approve the fiscal mechanisms that could make Tower Renewal financially viable. These include extending the use of the property tax-based mechanism or providing any financial aid to a corporation by over-collateralizing its credit pool. The use of

property taxes as a mechanism for securing private loan repayments is particularly revealing of the City's continuing reliance on traditional funding revenues that COTA failed to expand.

Tower Renewal's need for provincially approved funding mechanisms despite COTA helps explain why the City still finds itself incapable of raising sufficient revenue for programs related to social housing and assistance that had formerly been partly funded by the Province. Ironically, although the City has yet to be granted approval for the new fiscal powers, on December 6, 2010 the Province released a report entitled *Tower Neighbourhood Renewal in the Greater Golden Horseshoe*, authored by the same architects and planners behind Toronto's Tower Renewal plan (E.R.A. Architects 2010). It argues for a tower retrofitting program that mirrors Toronto's Tower Renewal plans but expands to the 1,925 towers across the Toronto region (Kennedy 2010). The lack of authority provided to the City by COTA despite the Province's apparent interest in Tower Renewal programs highlights the extent to which COTA failed to sufficiently reconfigure Toronto's subordinated place in Canadian federalism.

Transit City and the Toronto Transit Commission

The funding of Mayor Miller's Transit City plan, an expansion program seeking to bring higher order public transit options to the inner suburbs, is another example of COTA's failure to provide the City of Toronto with sufficient legislative authority as articulated in the *Act's* text. Until 1998, the Toronto Transit Commission (TTC), Toronto's public transit system, received 25% of its operating costs and 75% of its capital costs from the Province annually (Horak forthcoming). When the Province withdrew its funding in 1998, the TTC became solely reliant on fare box revenues and already strained municipal property tax revenues, sending its finances into a crisis. However, through a series of intergovernmental agreements spearheaded by Miller, fiscal transfers to the TTC by the provincial and federal government have since increased. This trend peaked in 2007, when the TTC announced that it was pursuing a ten-year multi-billion dollar expansion plan that proposed building over 120 kilometers of light rail throughout the city — one of the largest light rail projects in the world (Horak 2008).

Ostensibly intended to increase general transit service and capacity, the Transit City plan had a profoundly social function: it aimed to bring higher order transit to all thirteen priority neighborhoods in the inner suburbs currently underserved by heavily used bus routes (see Figure 3 in Appendix). With complete decision-making authority of the TTC reaffirmed by COTA, the routes prioritized under Miller increased

accessibility in those areas. Yet with income taxes, gas taxes, and road tolls all requiring explicit provincial consent, Miller had few revenue resources to draw upon for funding. COTA had allowed the possibility of two new highly controversial taxes, a vehicle registration tax and a land-transfer tax, which Miller forcefully passed through Council in 2007 by declaring the City was in a state of fiscal emergency and threatening to close one of the City's subway lines (Horak 2008). These new taxes were still insufficient to fund Transit City, requiring the City to seek intergovernmental funding. Such funding came in 2009 in the form of \$8.15 billion from the Province and \$950 million from the federal government, fully covering the cost of the first four 'priority lines' without any municipal funds (Horak 2008; Government of Ontario 2009; Toronto Transit Commission 2010). Like the Mayor's Tower Renewal, Transit City intended to redirect available funds to benefit poverty reduction goals outlined in the priority neighborhoods framework.

Recent events have drastically changed the future of Transit City in Toronto, highlighting both the weaknesses of a funding model so dependent on intergovernmental transfers as well as the vast shortcomings of COTA. On October 25, 2010, Mayor Miller was succeeded by Rob Ford, a vocal opponent of Transit City who on his first day in office announced that "Transit City is over" (Kennedy 2010). Ford has made clear he intends to cancel all current contracts for the 120 km light rail line plan and instead build one 8 km subway in the suburbs using provincial funds (Globe and Mail 2010a). A unique situation has therefore arisen as a result of the new mayor's stance that tests the governance and funding structures established by COTA.

First, in Toronto's "Strong Council" model of municipal governance, the mayor does not technically have unilateral authority to decide on TTC matters, and it is unclear whether he has the support of the City Council to cancel Transit City (Cote 2009). At the provincial level, uncertainty as to the Ontario government's interest in seeing Transit City succeed also directly relates to COTA. Transit City is not only almost entirely funded by the Province, but it is a central part of a long-term regional transportation plan set by the newly established transit agency Metrolinx (Metrolinx 2008). However, to push forward a transit plan in Toronto that is not supported by the City's mayor, who COTA states is "the representative of the City both within and outside the City" (Government of Ontario 2005), could be interpreted as against the spirit of "mutual respect, consultation and co-operation" articulated in the opening pages of the *Act* itself (Government of Ontario 2005).

In the case where Council and the Mayor are divided on supporting Transit City, the Province may be in a position to dictate TTC policies despite COTA's explicit reaffirmation that TTC decisions are a

municipal responsibility. This ambiguity further blurs accountability over Toronto's transit system, reflecting another failure of COTA. Yet COTA's greatest shortcoming is ultimately the City's continuing reliance on intergovernmental transfers for any capital programs, leading to the uncertainty of present plans and keeping the City at the mercy of provincial largesse.

Conclusion

Former Mayor Miller's Tower Renewal and Transit City programs reflect how the legislative gains made through COTA are insufficient to alleviate inner suburban poverty. The innovative and indirect ways that both Tower Renewal and Transit City attempted to utilize building retrofitting and transit expansion programs to address poverty issues in Toronto are a direct result of the structural limitations that remain in place despite COTA. The continuing need for Provincial approval and intergovernmental transfers even within these strategies further attests to the City's continuing subordinate place in Canadian federalism. Based on this study of the Tower Renewal and Transit City proposals in Toronto, COTA failed to achieve its stated aim of providing the "fiscal tools to support the activities of the City" in the case of addressing inner suburban poverty. Further legislative authority must be granted to the City by the Province if Toronto's funding resources are to become commensurate with its governance responsibilities.

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Appendix

Table 1: Distribution of Operating Expenditures, Metro Toronto, 1978 and City of Toronto, 2003 (%)

	1978	2003
General government	9.3	6.4
Protection to persons and property	20.0	16.3
Transportation	27.7	20.8
Environmental services	13.4	16.5
Health Services	3.0	4.0
Social services and social housing	12.7	27.4
Recreation and cultural services	12.3	8.0
Planning and Development	1.7	0.7
Total expenditures	100.0	100.0

Source: Ministry of Municipal Affairs and Housing, MARS database

Table 2: Distribution of Operating Revenues, Metro Toronto, 1978 and City of Toronto, 2003 (%)

	1978	2003
Property taxes	49.4	40.0
Payments in lieu of taxes	4.5	0.9
User charges	18.0	19.6
Transfers from other governments	22.3	22.0
Other revenue	5.9	17.5
Total revenues	100.0	100.0

Source: Ministry of Municipal Affairs and Housing, MARS database

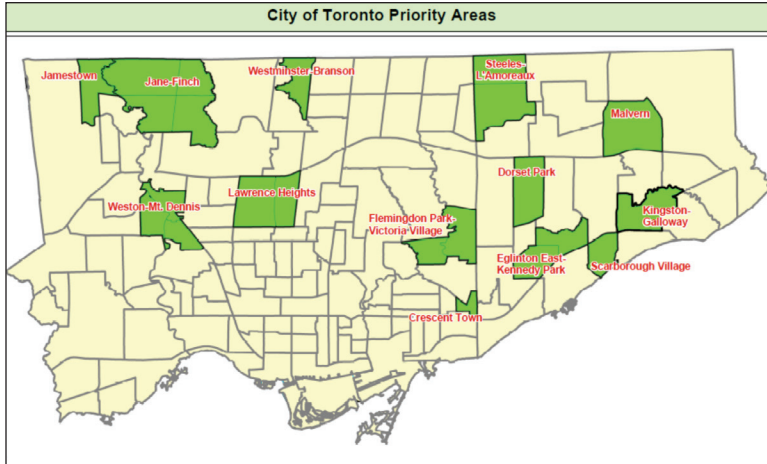
Table 3: Intergovernmental funding for TTC, 2000–2007 (\$ million)

	2000	2001	2002	2003	2004	2005	2006	2007
Provincial	0	0	63	141	141	159	271	329
Federal	0	0	62	14	12	163	166	112
Total	0	0	125	155	153	322	437	441

Note: All of the federal funding listed is for capital purposes. Provincial figures include operating subsidies, which started at \$70 million in 2003 and increased to about \$90 million in 2005 and thereafter.

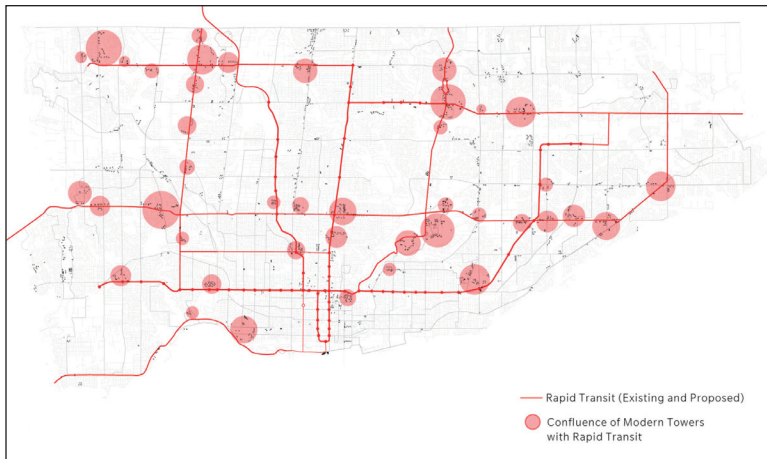
Source: Toronto Transit Commission Annual Reports 2002-2007.

Figure 1: Thirteen Priority Neighborhoods in the City of Toronto



Source: City of Toronto

Figure 2: High-Rise Clusters with Current and Future Rapid Transit A



Source: E.R.A. Architects Blog <http://era.on.ca/blogs/towerrenewal/>

Figure 3: Planned Transit City Lines and Thirteen Priority Neighborhoods



Source: <http://www.savetransitcity.ca/>