



SCHOOL OF
POLICY STUDIES

The Impact of Covid-19 on the Future of Governance in Canada: A Roadmap to the White Paper

Highlights and Recommendations

Why This and Why Now?

As Canada moves tentatively to a future that remains uncertain, how we govern ourselves, how policies and practices are made, executed and scrutinized is very important. At the onset of the pandemic, the School of Policy Studies at Queen's University created collaborative working groups to examine the world as reshaped by Covid-19 and the Canadian experience of it. This brief introduction reports on the key findings in the Governance Working Group White Paper that cover many aspects of governance, pointing to possibilities, problems, and the need to refocus the attention of our leaders.

The shared finding of the Working Group's contributions is that Canadian institutions work well and serve Canadians well during the pandemic but will need to be adapted for a successful recovery once the pandemic has waned. At the heart of the Paper, however, is the recognition that governance, how we collectively make decisions, who is at the table, what we have learned, and what new challenges have emerged remains central to the successful recovery, adaptation, and renormalization of the country. This is an opportunity that we should not miss.

This roadmap highlights key ideas and recommendations for action from each contribution in the Governance Working Group White Paper.

The full White Paper is accessible at queensu.ca/sps/publications
Associated longer versions of certain papers are also available at this site. For further information on the White Paper, contact the Governance Working Group lead Dr. Kathy Brock at kathy.brock@queensu.ca

WHITE PAPER CONTRIBUTION #1

THE PERILS OF REDUCED PARLIAMENTARY SCRUTINY

Kathy Brock, Queens University

- Emergencies only exaggerate the need for accountability.
- During Covid-19, the executive is escaping the parliamentary scrutiny necessary for good governance.
- Less oversight promises consequences for the quality of democratic governance.

SUMMARY: A strength of the Canadian system of governance is that during crises the prime minister and Cabinet have been able to act decisively and effectively. What is often overlooked is the pivotal balancing role that Parliament normally plays in supporting government decisions (efficiency) and in ensuring that these decisions are in the best interests of the public (effectiveness) by holding the government to account. In the extraordinary conditions created by the Covid-19 crisis, the executive is escaping both parts of the parliamentary scrutiny necessary to ensure fairness and fiscal probity. The balance has tilted away from effectiveness in favour of efficiency and away from scrutinized and justified decisions to politically popular ones. The short-term danger is that government actions are flawed and partial to certain interests. The long-term peril is that the critical importance of Parliament holding government accountable for its spending decisions may be eclipsed.

RECOMMENDATIONS:

To the prime minister:

- Announce major decisions, particularly spending ones, in Parliament.
- Maintain a high public profile to reassure Canadians and keep them informed directly.

To the political parties:

- Respect Parliament and ensure its full functioning in times of crisis as well as regular times by supporting and scrutinizing the decisions and actions of the government.

To the public and media:

- Be vigilant to ensure the full functioning of Parliament in times of crisis.
- Ask tough questions and consider the short- and long-term consequences of government actions.

WHITE PAPER CONTRIBUTION #2

MULTIPARTY AGREEMENTS AND A BETTER MODEL FOR PARLIAMENT DURING CRISES

Kathy Brock and Lori Turnbull, Queen's and Dalhousie Universities

- Marginalization of Parliament during pandemic was unnecessary.
- Multiparty agreements reduced the effectiveness of Parliament.
- The Emergencies Act provided a good model to show how Parliament might have operated.

SUMMARY: A strong executive held to account by a vigilant Parliament is fundamental to the good functioning of democracy in Canada. During the extraordinary conditions created during the Covid-19 crisis, the Liberal minority government made deals with the New Democratic Party (NDP), Bloc Québécois, and Green Party that had the effect of reducing the ability of Parliament to hold the executive to account by eliminating key levers of power at the opposition's disposal and by limiting the frequency of House of Commons sittings. This marginalization of Parliament in the Covid-19 decision-making process was neither necessary nor desirable given that the parties could have chosen to follow an alternate model that would have retained the full powers of Parliament to scrutinize the executive while still enabling the executive to act swiftly to meet the challenges posed by the pandemic. This episode raises serious questions about the nature and scope of multi-party agreements, the relationship of the executive to the legislative branch, and the role of Parliament in crises; all of which merit further investigation and research in the future.

RECOMMENDATIONS:

To the government and political parties:

- Amend House rules and procedures to provide for a model of Parliament to operate during crises like Covid-19.
- Consider whether any fundamental changes to the operation of the House of Commons should require all-party agreement under the House rules and procedures.

To the government:

- Update the Emergencies Act and consider whether the Emergencies Act should be amended to make it easier to invoke during crises like the pandemic.

To academics:

- Conduct research on how parliaments within Canada and internationally fared in holding the executive to account during the global pandemic and the appropriate nature and scope of multiparty agreements in parliamentary systems.

WHITE PAPER CONTRIBUTION #3

PARLIAMENT: MANAGING CHANGE DURING THE PANDEMIC

Gregory Tardi, Queen's University

- Covid-19 altered the generally stable operation of the Canadian Parliament.
- The pandemic has ushered a need for reforms.

SUMMARY: In the national life of Canada, one of the most visible changes brought about by the 2020 pandemic has been the seemingly altered role of Parliament. The method of democratic legislation and deliberation has evolved over centuries but has been generally stable. We must look at how it has changed over the last few months. The pandemic immediately posed a challenge for convening meetings of the legislature that was met with relative ease. However, other changes were not as successful, and parliamentarians will need to consider further reforms to adapt to the new circumstances ushered in by the pandemic. This is equally true in the provinces and territories.

RECOMMENDATIONS:

To Parliament and the Procedures and House Affairs Committee:

- Assess whether the procedures adopted by the House of Commons were the best ones possible with special attention to House sittings in a dispersed or hybrid fashion, rules governing committees, House voting procedures, and the need for secure communications equipment.

To the House of Commons:

- Undertake a comprehensive review of Canada's level of preparedness in case of a pandemic.
- Consider the establishment of a position of parliamentary medical officer of health.

WHITE PAPER CONTRIBUTION #4

COVID-19, CABINET, AND CENTRAL AGENCIES

Lori Turnbull, Queen's University

- Central agencies were central in the federal government response to the pandemic.
- Although central agencies functioned fairly well, the complexities of the crisis overwhelmed their capabilities resulting in lapses in horizontal collaboration and coordination that is critical to good governance.

SUMMARY: Westminster parliamentary systems are often criticized for concentrating or centralizing power in the hands of the prime minister and a small number of close advisors, including select Cabinet ministers, trusted political staff, and senior public officials such as the clerk of the privy council. As was to be expected, in the federal government’s response to Covid-19 as both a public health and an economic crisis, central agencies were front and centre. Though it is clear that central agencies played their horizontal coordinating role in many ways as was required of them to manage the federal government’s response to Covid-19, it is also possible that the complexities of the crisis overwhelmed the traditional central coordinating function which, in some cases, the horizontal collaboration and coordination necessary to ensuring coherence and calibration across departments did not happen. This exploration of key activities of the three main central agencies during the Covid-19 crisis suggests that there is a need for more research, both in the federal and provincial contexts, about the operation and effectiveness of central coordination during times of crisis.

RECOMMENDATIONS:

To academics and think tanks:

- Undertake research both in the federal and provincial contexts, about the operation and effectiveness of central coordination during times of crisis.
- Conduct further research about the implications of the structure and organization of Cabinet government for central agencies compared with the leadership styles of prime ministers during normal times and crises.

WHITE PAPER CONTRIBUTION #5

PUBLIC POLICY AND DELIVERY: TEMPORARY RESPONSE OR CREATING NEW PATHWAYS?

Andrew Graham and Eugene Lang, Queen’s University, and Toby Fyfe, Institute on Governance

- The pandemic highlighted key policy areas for improvement.
- The public sector rose to the challenges posed by Covid-19.

- Going forward, the public service faces important decisions as it assesses which innovations in its methods of making policy and delivery services it should retain or adapt as it moves out of the pandemic.

Government played a pivotal role in the response to Covid-19, adopting new policies and administrative practices with speed, innovation, and sharp focus. This paper identifies both policy and public sector administrative issues arising from the response. Policy fault lines emerged such as long-term care. Further, the short-term policy responses to the crisis, especially on the economic side, require a careful unwinding. The crisis has created new issues of what exactly is public safety that need debate. Finally, there needs to be a national discussion to create a roadmap into the changed world. On the public sector side, the crisis showed that policy design can change and engage more stakeholders. The public sector has to adapt to the new work environment while building better public services. Finally, the public service needs to rethink, profoundly, its management of risk to better serve the public good it exists to deliver.

RECOMMENDATIONS:

To the prime minister:

- Build a roadmap circle of leadership: Assemble, working with provinces but all sectors, a “best and brightest” team to fan out and talk to Canadians to advise on the creation of a Canadian roadmap to health, safety and security. Start soon.

To provincial leaders:

- Change the references to long-term care to “aging in health and dignity”: The provinces hold the authority and responsibility to fix what went wrong here. They also hold the capacity to rethink the system, drawing in a mix of players into a national consensus and action.

To leaders of the public service (clerks, cabinet secretaries):

- Create a frank conversation about risk culture: This will take time, consistency, and leadership, but it has to start with an understanding of what has to be done. The public service should draw in academics, business leaders, and their international colleagues to form that agenda. It remains an elusive bunch of clichés at this point.
- Develop a new public service model: Public services lunge from one fad to another. Digitalization seems top of mind right now. The basic public-sector values of service, loyalty and excellence seem a more prosaic, but more real foundation for a modernization agenda. Modernization is not a free good.

WHITE PAPER CONTRIBUTION #6

FISCAL TRANSFERS, DISCIPLINE, AND THE SUSTAINABILITY OF PROVINCIAL DEBT

Kyle Hanniman, Queen’s University

- Need for new ways to stabilize provincial debts.
- Federal transfers and bailout facility offer a new approach.

SUMMARY: One of the greatest sources of Canada’s resiliency in recent years has been the public sector’s ability to borrow. It allowed us to run countercyclical deficits during the financial crisis and to build a bridge for struggling businesses and households during the pandemic. But as the pandemic and the economic crisis subside, we will need to find ways to gradually stabilize the country's outsized provincial debts, while ensuring other policy goals – including the provision of adequate services – are met. Above all that means finding ways to bolster provincial fiscal capacity while strengthening incentives for fiscal discipline. This component proposes a two-pronged approach: a significant increase in federal transfers to provinces and the establishment of a conditional bailout facility to finance provincial deficits at federal interest rates.

RECOMMENDATION

To the federal and provincial governments:

- Consider the establishment of a conditional bailout facility to lend at federal rates in order to stabilize provincial debt while respecting provincial autonomy.

WHITE PAPER CONTRIBUTION #7

A LOCAL GOVERNMENT RESPONSE TO THE PANDEMIC: THE KINGSTON CASE

Helen Cooper and Samantha Kieffer, Queen’s University

- Kingston provides a good study in pandemic responses.
- Municipal administration is essential to control spreads.
- An archaic municipal taxation system impedes effective and essential action at the municipal level of government.

SUMMARY: The pervasive arrival of Covid-19 and the dramatically different outcomes in various countries naturally leads to an examination of what systemic responses are most effective. The City of Kingston and the counties of Frontenac and Lennox & Addington in Ontario have an admirable track record in halting the virus initially, then responding rapidly and effectively when a spike occurred. This example illustrates how both federal and provincial attempts to control the spread are largely dependent on well-functioning local public health and municipal

administrations. At the same time, the pandemic has exposed municipal financial vulnerabilities and the deleterious effects of an archaic municipal taxation system.

RECOMMENDATIONS:

To Public Health Ontario, the regional health units and municipalities:

- The response to the pandemic in Kingston, Frontenac, and Lennox & Addington was based on a well-coordinated effort on the part of the public health unit, the regional healthcare system and the municipalities. This partnership should be further refined and could provide a model for future pandemic response preparation and action throughout Ontario.
- Public Health Ontario should lead the development of consistent public reporting of epidemic/pandemic incidence amongst the public health units.

To the Ontario government:

- Develop a blueprint for public health delivery with consideration to:
 - The heavy reliance of both the federal and provincial government upon highly functional public health units/departments and the municipalities with which they are aligned to coordinate an adequate response to a public health emergency;
 - The optimal size of public health units/departments to develop a sophisticated epidemiological approach to identifying and managing the threat of an epidemic or pandemic; and
 - The level of resource requirements for each health unit/department to manage through an epidemic or pandemic.
- The recently announced Independent Commission into Long-Term Care in Ontario should examine very closely why the Covid-19 death rate in privately owned and operated long-term care (LTC) homes is five times that of municipally owned and operated homes, including capital and operating cost variances, and especially staff qualifications, deployment and compensation.

To the federal and provincial governments:

- The pandemic provides an opportunity to review tax policy with respect to municipalities. Rather than simply offering municipalities a one-time handout to cover operating deficits in 2020, they should understand that the main sources of revenue for municipalities, namely, property tax, and user fees are inadequate and often regressive for addressing the costs of the full array of municipal services. Municipalities should have access to a more progressive taxation system to cover the extensive social, cultural, and environmental services they provide.

WHITE PAPER CONTRIBUTION #8

ACCOUNTABILITY TO LAW THROUGH LITIGATION

Gregory Tardi, Institute of Parliamentary and Political Law

- Questions of Covid-19 preparedness and measures have given rise to legal concerns.
- The rule of law is important in holding governments accountable.
- Politically motivated and legally motivated litigation has been used to target the decisions and actions of states and policymakers in jurisdictions around the world.

The pandemic of 2020 has engendered a great deal of political discussion about preparedness or the lack of it, about the appropriateness and especially about the adequacy of measures to struggle against the illness, while maintaining economic activity and safeguarding the social networks of society. Beyond the political rhetoric, there have been many significant instances where litigation has been used to attribute responsibility about various aspects of the emergency. This section is a first attempt at an overview of that resort to law in jurisdictions around the world.

RECOMMENDATIONS

To legal counsel:

- On the side of prospective plaintiffs, any attempt to forestall serious litigation would be inadvisable. Moreover, advice to avoid frivolous and vexatious litigation is counterproductive.

To governments:

- Govern with one eye to constitutionalism and the rule of law, and in such a manner as always to practice (peace, order and) good government. However, based on the diversity of views of prospective litigants and on the ingenuity of counsel well-versed in the laws, no amount of regard for these criteria will avoid or reduce litigation.

To governments and academics:

- Covid-19 is a new domain of legal practice, though of course it encompasses numerous traditional domains of law (constitutional law, public duties, tort, contract, property, etc.). Consider cataloguing all pleadings and judgments related to Covid-19.
