Executive Decision-Making During the COVID-19 Emergency Period

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In March of 2020, communities across Canada began an indefinite period of “lockdown” as a result of the COVID-19 pandemic. The emergency circumstances changed the ways in which governments, and all organizations, performed their functions. In order to address the public health crisis and stop the spread of COVID-19, governments told everyone to stay at home as much as possible. Many employees transitioned to remote work. Businesses, universities, libraries, and other public spaces were closed. Parliament closed ahead of schedule and returned in a hybrid form whereby most Members connected via Zoom, while others practiced physical distancing on the floor of the House of Commons. The economic crisis that resulted from business closures, job losses, layoffs, and reductions in hours worked meant that Canadians needed governments’ help. To this end, relief programs directed at individuals and businesses were rolled out rapidly.

Bureaucracies are often accused of moving too slowly, with not enough responsiveness to the urgent and important needs of citizens. Canada’s public service has not been immune to this critique over the years. However, as John Ivison1 wrote last year, recent reviews of the public service have been more positive: “This column and this newspaper have often been critical of the federal bureaucracy when it has failed Canadians. In this case, it appears that many public servants have gone above and beyond the call of duty to ensure their fellow citizens can afford food and shelter. Ladies and gentlemen, we salute you.” And this pandemic is of historic proportions. Late in June 2021, the United States have had over 600 000 deaths, Brazil over 500 000, too many European countries have had over 100 000 deaths and Canada over 26 000. Policy and implementation decisions had to be made while the evidence to bas decisions was still limited. The efforts of public servants all levels of government in Canada are being championed and celebrated for their speed, effectiveness, and responsiveness during the COVID-19 emergency period. It has not be true everywhere on earth. 2 At the same time, there has been much criticism of government action around the procurement and distribution of vaccines and inadequacies in the implementation of some aid programs. Given the severity and complexity of the circumstances, students of governance need to ask questions about how decisions were made during the emergency period.

The goal of this paper is to offer some insights and reflections on the following questions, with specific focus on executive decision-making within the federal government during the height of the emergency period:

- How nimble is government in the Westminster tradition and how capable are existing systems at responding to crises?
- How did processes around cabinet decisions and cabinet committees change? Did the response to COVID-19 require any machinery changes?
- What role did central agencies play in supporting cabinet and how did they adjust their processes?
- Were processes truncated or bypassed altogether and were there unintended consequences of an alternative approach to decision-making?

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1 See Ivison, John (2020), Amid staggering unemployment rate, public servants handling EI claims are unsung heroes, The National Post, April 7.

2 See Ahuja, Anjana (2020), Lunch with the FT, Richard Horton “We’ve had the biggest science policy failure in a generation, Financial Times, April 25,
• What, if anything, about this experience might we want to take into the future in an effort to improve the quality, accuracy, effectiveness and responsiveness of public policy and service delivery?

We acknowledge that there are limitations to what we can know about decisions taken during the COVID-19 emergency period. Not much time has passed since that first lockdown in March of 2020 and, at the time of writing, provinces continue to function in various stages of phased reopening. Seventy percent of those eligible to be vaccinated in Canada have received at least one dose.³ Though it seems that the crisis is lifting, it might be too early to draw conclusions about what worked and what did not. Also, the reality of cabinet confidence means that much of what happened in terms of who decided what, when, and how cannot be shared with researchers, much less revealed publicly. For these reasons, the focus of the paper will be on the system and its operations overall rather than on any specific decisions.

To gather information and evidence in support of this report, the authors consulted media reports and scholarly work on decisions taken by the federal government in response to the challenges posed by the COVID-19 pandemic. We also convened two roundtable discussions with federal public servants, many of whom are employed at either the Privy Council Office, the Department of Finance, or the Treasury Board Secretariat. Also, we are grateful to a select number of federal public servants who participated in individual conversations with us so that we could understand some of the specifics of emergency decision-making more fully. This paper was not written to be the definitive study on the topic but to suggest paths for future research.

This report is organized around the following themes and topics: i) the capacity of Westminster systems of government to respond to crises effectively; ii) costs and unintended consequences with respect to how decisions were made and communicated; iii) the dynamic between central agencies and line departments, and iv) lessons for the future.

A note on Westminster as it works in Canada

Brock and Turnbull (2020) make the following observation about the suitability of the Westminster system to respond to crises and emergencies:

*Westminster parliamentary systems work by striking a well-calibrated balance between a powerful executive branch that can take decisions and actions effectively and a functional legislative branch that holds the government to account. In times of emergency, the balance between decisiveness and accountability tends to lean more heavily towards an even more powerful, effective executive.*

Some of the defining features of the Westminster system, including the Crown prerogative, the centralization of power in the prime minister and cabinet, the horizontal coordination between departments, and ministerial accountability and responsibility, are criticized for concentrating power too heavily in one place. However, these features proved to be highly effective in responding to the challenges of the COVID-19 emergency period by facilitating decisions that were expeditious and sound.⁵

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⁵ For a view of the American republican decision making, see Pfiffner, James P, (2011) Decision Making in the Obama White House, *Presidential Studies Quarterly, vol* 41, no 2, p. 244-262 or various accounts of the Cuban
Donald Savoie, Jeffrey Simpson, and others have written extensively about the power of the Prime Minister’s Office and the dearth of effective accountability around the political executive in Canada.\(^6\) The levers at a prime minister’s disposal, including the ability to make appointments to the cabinet, the Senate, and the courts, render the prime minister the ultimate decision maker in the Westminster system. Even in a minority government situation, the prime minister’s will prevails and, when it does not, an election occurs.

The narrative around the power of the prime minister tends to be a critical one for good reason. An overly powerful executive raises questions around whether the legislative branch has enough tools at its disposal to hold the executive to account. The key is for decisiveness and accountability to exist simultaneously. The Westminster model does not set up a false dichotomy between a powerful executive and powerful legislature; both branches must be robust, resourced, and legitimate in order for system to work properly. Even during critical emergency periods, when the emphasis is placed on action and decision-making rather than accountability, decision-makers are always aware that they will be held to account by the legislature.

The powers of the executive were key to the federal government’s response to COVID-19. In March 2020, once the crisis hit in earnest, Parliament was forced to close because of the need for physical distancing. Given that Parliament was not able to approve spending right away, the government relied on Governor General’s Special Warrants so that money could flow quickly. Normally, Governor General’s Special Warrants are used during periods of dissolution, when there is no Parliament to approve spending that becomes necessary during a writ period. However, during the COVID-19 crisis, the Financial Accountability Act was changed so that the executive could access Special Warrants even though Parliament had not been dissolved.

Also at that time, Prime Minister Justin Trudeau created a new cabinet committee on the federal response to the Coronavirus disease (COVID-19). This committee was chaired by Deputy Prime Minister and then Intergovernmental Affairs Minister Chrystia Freeland. For months, this was the central cabinet committee and the only one that was receiving pitches from departments and transacting business. The reason for this was obvious: the government’s priority was COVID-19, and all other matters could wait. All issues that were defined as being related to COVID-19 came to this committee and all others did not advance, at least for the time being. Decisions were ratified by the full cabinet. The ad hoc committee on COVID-19 ended up being a type of “priorities and planning committee”, which speaks to the flexibility of the Westminster model in that the Prime Minister can make changes to the design of the cabinet committee structure as circumstances warrant. The list of committees that is currently much longer than under past governments is already an indication of flexibility. Overall, items were not dropped from the priorities list, but only a small number of priorities were handled so as to make decision-making possible.

Expectations around memoranda to cabinet (MCs) were adjusted so that ideas could come forward quickly and in the format that the sponsoring minister was the most able to work with, whether it was a short MC or a deck. Page counts for cabinet papers were reduced significantly; what could be documents between 50 and 100 pages became two pagers.\(^7\) Also, the fact that ministers and their advisors were working remotely meant that secret documents could no longer be shared on paper. Everything was either digital or verbal, and secure technology made information-sharing and decision-making possible.

\(^6\) See Bourgault, Jacques (2021), Enjeux contemporains de gouvernance pour les sous-ministres du gouvernement du Canada, Montréal : JFD éditions.

\(^7\) Some would argue that the 2 page documents can hardly contain all the relevant material but between 2 and 100 pages, there is room to find a lighter version than what was done before the pandemic. And this without compromising the quality of the decision made.
The Prime Minister’s cabinet briefings were often done orally, and the notes he received were much reduced compared to what is normal practice. Usually, a prime minister receives multiple thick binders to review before a cabinet meeting, with a specific note for each agenda item. During the emergency period, he would receive a single note before a cabinet meeting that spoke to all of the issues briefly.

Costs and Unintended Consequences

The general approach to decision-making during the COVID-19 period was to focus on delivering outputs and outcomes instead of on adhering to standard and procedures. This approach was essential in order for the public service to respond to the crisis effectively, but there were bound to be some hiccups. For example, the Canada Emergency Response Benefit (CERB) was created to give financial support to employed and self-employed Canadians whose income was affected by COVID-19. The process for receiving funds was made to be quick and easy so that people who needed the funds could get access to them were able to do so as soon as possible. Procedures for verifying eligibility came after the fact, which led to some ineligible CERB payments having to be paid back. As of October 2020, 830,000 CERB payments had been repaid. In December of 2020, the Canada Revenue Agency (CRA) issued 441,000 educational letters to Canadians who might need to send back CERB payments.

The CERB eligibility issue came to a head when some small business owners who believed themselves to be eligible for CERB were, in fact, not eligible. The original application did not specify whether the income threshold for qualifying ($5000 in 2019) was referring to net income or gross income. CRA clarified later that it the threshold referred to net income, which meant that some people were asked to return all of the payments. CRA admitted the mistake, eventually, and the government backed down from expecting repayment over the holidays and moved instead to a more flexible repayment schedule. However, this example shows the cost of transacting business quickly. Mistakes and omissions can go undetected for too long. However, reform efforts aimed at improving the agility of the federal government were underway prior to COVID-19, and accelerated during it.

In at least one case, the loss of process came at a significant political cost and led to the cancellation of a program that was meant to help students get through the COVID-19 crisis. The decision to bring in the WE Charity to administer a multi million-dollar student summer grant program, as opposed to the public service itself, was a complex and problematic one both for the public service and the elected government. As soon as the decision was announced, suspicions were raised around the closeness of the relationship between the WE Charity and its founders, Marc and Craig Kielburger, and Prime Minister Trudeau and his family. Senior public servants, including the Clerk of the Privy Council, as well as Prime Minister Trudeau, then Minister of Finance Bill Morneau, and others were brought before parliamentary committee to determine what process, if any, led to the decision to grant such a significant piece of work

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9 Harris, Kathleen. 2020. “Canadians have returned 830,000 benefit payments.” CBC News. Available at: https://www.cbc.ca/news/politics/cra-cerb-repayments-1.5748334
10 Cousens, Ben. 2020. “CRA sends 441,000 ‘educational letters’ to Canadians who may need to repay CERB.” CTV News. Available at: https://www.ctvnews.ca/health/coronavirus/cra-sends-441-000-educational-letters-to-canadians-who-may-need-to-repay-cerb-1.5231349
to an organization with ties to the Prime Minister. Both the politicians and the public servants who testified on the matter confirmed that the public service recommended that the WE Charity be given the responsibility to administer the program. In the end, the program was canceled, Minister Morneau resigned, and the WE Charity has closed its operations in Canada. In a parliamentary committee appearance on the matter, Employment Minister Carla Qualtrough admitted: “It was a pandemic and things were crazy and we were going at break neck speed. But we should not have dropped the ball on this.”

There is a desire among public servants to return to “normal” when it comes to process, to engage in longer and more detailed briefings, as well as more robust MCs, so that there is enough time and space for advice to be given in full. While there is a strong consensus that the system and the people in it worked extremely well, there is very little interest or energy to continue at the pace that was kept during the emergency period. One of the results of the pandemic is that the introduction and use of technology has accelerated; this might be one of the positive impacts of the crisis.

Dynamics between Central Agencies and Line Departments

Central agencies play a coordinating role within government; they work with and across line departments to ensure coherence in advice, objectives, and strategy. There can be tension between the two types of entities, particularly if departments come to resent encroachment and overstepping from central agencies on items that belong in the jurisdictions of line departments. If this tension had been too tight during the COVID-19 emergency period, it could have undermined the effectiveness of the government’s response. However, by all accounts, central agency functions regarding approvals and coordination worked as they should by becoming more flexible. Central agencies pledged to stay out of the way to give more autonomy to departments to get things done. For example, early on in the pandemic, deputies were told to put the emphasis on speed when it came to implementing programs and “to use sound judgment in using maximum flexibility when applying Treasury Board administrative policies and exercising their authorities.” Treasury Board recognized the need for flexibility, but “always within the context of ongoing ministerial accountability.”

Though procedures around Treasury Board submissions were made more flexible when possible, all COVID-19 items seeking funding through the Estimates process went through the Treasury Board to be put into the Estimates that went to Parliament for approval.

For months into the emergency period, when the cabinet committee on the federal government’s response to COVID-19 was the “super committee” and the only one doing business, some departments became frustrated that their items were being shelved for so long because they were not directly related to the crisis. However, meetings at the deputy minister level throughout the crisis ensured awareness of the issues that all departments were facing, even if they did not come to cabinet committee. As the crisis wore on through the summer and into the fall of 2020, it became clear that the COVID-19 committee was dealing with issues that could no longer be classified singularly as “emergency issues” but, instead, was dealing with more complex policy issues that were social or economic in nature. In the fall, the Prime Minister made the COVID-19 committee a regular committee of cabinet rather than an ad hoc one, and

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13 Harris, Kathleen. 2020. “Government ‘dropped the ball’ on WE Charity deal, Qualtrough says.” CBC News. Available at: https://www.cbc.ca/news/politics/liberal-we-charity-student-program-chagger-qualtrough-1.5681995


other cabinet committees began to meet and do business. This opened up opportunities for non-COVID-19 issues to come to the fore and for decisions to be made on a wider range of issues.

One of the lessons of the crisis might be a lighter coordination of departments as it was done decades ago in Canada. Generations ago under Louis St-Laurent for example ministers were more autonomous. The modern issues governments have to deal with make impossible to go back to what was done then. But before re-establishing the heavy processes of before the pandemic, perhaps there is an opportunity to reconsider some of them. Some controls from TBS might not be as necessary as believed before the pandemic. Only time will tell. At the same time, some public servants have developed more entrepreneurial habits and it could be difficult for many of them to go back to the old system.

Margaret Thatcher was tired of the policy advice, and wanted a public service that was more focused on delivery. What would she have seen in Ottawa? Some people in line departments felt neglected during the crisis. Too much on the preparation of policy and not enough preparation to face the difficulties of implementation. The distance between formulation and implementation is a source of inefficiency. It remained in the pandemic. Have too many people spent their entire career in central agencies? The pandemic might be a moment to rethink the equilibrium between the functions of the state before austerity measures force to do so. And austerity measures will come to handle the deficit.

Lessons Learned, Future Research
The Westminster system worked well during the crisis. It has the flexibility to take decisions, to act, and to make corrections as the situation evolved. The risk of failure was heightened in the crisis but, overall, the system worked as it should have. The management of the COVID-19 crisis has illustrated that sound decisions can be made, even with limited information and shortened time frames. A satisficing decision making can be achieved without too heavy systems of control.

In the longer run, we can expect a return to the more traditional processes of decision making. But lessons can remain form the management of the pandemic. For example, a lot of effort was made in preparing Memoranda to Cabinet. Usually for MCs, ministers want to cover all angles. During the pandemic, 50 or 100 page documents were replaced by two-page MCs. As long as they present the proper information, can a simplified preparation can last after the crisis? The right decisions can be made with partial information rapidly and are often done so even in more normal times.

The system proved to be flexible and could be adapted rapidly. For example, the COVID-19 committee of Cabinet is an interesting illustration of this flexibility. It was certainly central to decision making during the early months of the crisis but the regular committees took back their usual space in the second half of the year according to the interviews we did.


18 See Bernier and Mitchell, op. cit.

19 Mintzberg estimated that very often managers do not have more than nine minutes to make decisions, see Mintzberg, Henry (2006, 1973), Le manager au quotidien, Paris: Eyrolles
Herbert Simon suggested that decision makers do not maximise, they satisfice.\(^{20}\) The COVID-19 pandemic was a crisis when important decisions had to be taken with limited information and rapidly. The lengthy process of decision making had to shift into high gear. As other governments around the world confronted to the same crisis, the Canadian government has had to take important decisions under a very dark cloud of uncertainty.

On the management of the public service, it could be noted that public servants have worked hard over the last year. A more careful analysis should be done but our interviews indicate that both managers and other public servants are exhausted and have a real sense of burnout. The current level of work is not sustainable.

Other decisions will have to be made on policies coming from managing the crisis. A first one is on linguistic policy. Official documents were not translated as usual during the crisis.\(^{21}\) The pandemic has pushed to reconsider the importance of having the public service concentrated in the NCR. How do you ask someone based far in Western Canada to be bilingual? Secondly, and linked to the previous question, how many workers will continue to work from home or only go to the office a few days a week? Offices might need to be reinvented physically. Thirdly, policies toward the pharmaceutical industry in Canada need to change. If the machinery of government has not been changed during the crisis, the government might have to reconsider recreating Crown corporations such as Connaught Laboratories or changing regulations of the pharmaceutical industry in the country.\(^{22}\)

From the interviews we conducted, we learned federal-provincial relations were excellent over the management of the crisis. The sense of emergency, and the distribution of roles between the federal and the provincial governments were clear. The management of the pandemic was executive federalism at its best as some provincial officials have told us. The prime minister was regularly online and over 200 conference calls took place during the year to discuss, for example, the safe restart agreement. The importance of the issue made cooperation essential. This could be seen as a difference with other issues such as infrastructures, climate change or health where the provinces are consulted less. Time will tell if the improved links during the pandemics will remain. And the finances of the provinces might force some changes in the near future.\(^{23}\) For the federal government, eventually too the financial implications of managing the crisis will have to be faced even if not necessarily soon.

It appears that the pandemic has pushed toward more nimbleness. A big take-away from the experience of the past 15 months is that the pandemic illustrated the capacity of the public service to turn around quickly, to deliver results under stressful circumstances and to make the right decisions with limited information. We do not know yet what will remain of those


innovations, but there is no question that change has been accelerated because of the pandemic. This means that public entrepreneurs are necessary in the public service to take decisions rapidly knowing the risks but also seeing the crisis as an opportunity to act or the necessity to do so. The cabinet system as we know it was temporarily simplified with a new coordination committee that gradually became less central to decision making. The centralization of power at the center allowed to make decisions quickly, the horizontal management was temporarily more limited and ministerial responsibility remained an effective principle of government. The system works until a future crisis proves us wrong but the built-in flexibility should then allow to decide with agility.