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on

Public Sector and Parliamentary Accountability: Learning from COVID-19.

The Pulse of Government: Watching the Purse

By

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Preliminary remarks

This report seeks to provide some comments on the issues of accountability between the public sector and Parliament. The COVID-19 pandemic crisis has forced the federal government as well as the Canadian Parliament to act quickly to address serious unforeseen events. As a consequence, both institutions were not able to perform their normal tasks related to the scrutiny of government operations. Consequently, it seems relevant to examine what can be learned from this exceptional crisis and to present some recommendations to improve the accountability relationship between public servants and parliamentarians. We will argue that some criticisms were already expressed about this relationship before the pandemic. The pandemic can be, however, a window of opportunity to reform some of these rules and procedures.

This report is voluntarily short. It was produced during a short length of time, and for that reason it focuses only on a few selected key elements. We recommend that future work on this theme be pursued, that would include, among other things, a comparative analysis of the various responses of governments around the globe (especially those following the Westminster system) to the pandemic (although our preliminary research on this aspect suggests that the decisions-making structure used by the Canadian government was relatively similar to that of several other governments with different parliamentary systems).

This study benefitted from interviews with public servants holding key positions in central agencies or financial units. I would like to send my thanks and appreciation to all these people that have graciously offered their time for this project. I also extend my gratitude to my colleagues that have provided helpful comments (Kathy Brock from Queens University, Eric de Vries and Evert Lindquist, both from the University of Victoria). However, the views presented in this report are those of the author and do not necessarily reflect the views expressed by the people that were interviewed or consulted.

This report is one of two reports produced on the topic of parliament accountability (the other one was presented by Professor Kathy Brock, from Queen's University). It will focus exclusively on the financial aspect of parliamentary accountability.

1. Financial Accountability and Transparency

Accountability is one of the most important features in our parliamentary system¹. Westminster models, such as ours, afford exclusive authority to the government (the executive branch) to initiate, design and implement public policies. On the other hand, the legislative branch has the responsibility to approve government policies and examine them. When compared to other parliamentary systems, such as presidential regimes, Westminster systems such as Canada's, are

¹ Franks, C.E.S., *The Parliament of Canada* (Toronto: University of Toronto Press, 1987).

characterized by a strong concentration of power in the hands of the executive branch². This means that the government has a greater control over the public policy cycle (that is often synthesized as consisting of five distinct stages: agenda setting, policy formulation, policy adoption, policy implementation and policy evaluation). Yet, this decision-making power is not absolute. In exchange for greater control, the executive branch must submit itself to scrutiny (ministerial responsibility). It is the role of parliamentarians to hold the government to account for its actions and decisions.

In order to scrutinize government activities, the legislative branch needs information. Without knowledge of the various aspects of business conducted by the government, parliamentarians cannot analyze, debate and question government decisions. There is, therefore, a clear link between transparency and accountability. Accountability can only exist with transparency. On the other hand, transparency does not automatically entail accountability. The quality and relevance of the information that is provided to parliamentarians also matters. Therefore, transparency can be seen as a necessary yet not a sufficient condition for accountability.

Parliamentarians have often criticized that the information provided to them does not meet their needs. Their dissatisfaction is especially noticeable with respect to financial information, which plays a central role in the activities of Parliament. Over the years, several reports have been produced by standing committees of the House of Commons and the Senate that document the limitations of the financial procedure in the Canadian Parliament³. The most recent report was produced by the Standing Committee on Government Operations and Estimates in 2019⁴. Although the report acknowledges that some progress has been made in recent years, it also indicated that many problems identified in the past have yet to be resolved. It is interesting to note that most recommendations presented by parliamentarians focus on reforms that the federal government (and more specifically the Treasury Board Secretariat) should or must undertake. Yet, parliamentarians themselves can initiate some reforms (by changing their Standing Orders).

2. Transparency and Budget Documents

Three major complaints have been regularly reported by parliamentarians about the scrutiny of government budgets:

² Tsebelis, George, "Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartyism." *British Journal of Political Science* 25 (3), 1995, 289–325; Wehner, Joachim, *Legislatures and the Budget Process. The Myth of Fiscal Control* (New York: Palgrave Macmillan, 2010).

³ Standing Committee on Procedure and House Affairs, *The Business of Supply: Completing the Circle of Control*. (Ottawa: Parliament of Canada, December, 1998); Standing Committee on Government Operations and Estimates, *Meaningful Scrutiny: Practical Improvements to the Estimates Process*. (Ottawa: Parliament of Canada, 2003); Library of Parliament, *The Parliament We Want* (Ottawa: Her Majesty the Queen in Right of Canada, December, 2003); Standing Committee on Government Operations and Estimates, *Accrual Budgeting and Appropriations in the Federal Government*. (Ottawa: Parliament of Canada, 2006); Standing Committee on Government Operations and Estimates, *Strengthening Parliamentary Scrutiny of Estimates and Supply* (Ottawa: Parliament of Canada, 2012).

⁴ Standing Committee on Government Operations and Estimates. *Improving Transparency and Parliamentary Oversight of the Government's Spending Plans* (Ottawa: Parliament of Canada, 2019).

- The lack of complementarity between the Budget (which presents the spending priorities of the government) and the Estimates (by which the government seeks the authorization to spend public money). The two sets of documents are produced with a different timeline and use different accounting methods, a situation which is perceived to prevent parliamentarians from using and analyzing them jointly. Consequently, the study of Estimates, which lies at the heart of Parliament’s scrutiny activities, does not allow parliamentarians to examine budget measures.
- The structure of the Estimates, which classifies spending into various financial categories (according to the nature of expenditures—such as operating expenditure, capital expenditures, grants and contributions and others) is outdated. This functional classification limits the ability of parliamentarians to scrutinize spending plans in relation to program objectives, outputs and outcomes. Furthermore, this structure does not enable the assessment of the performance and relevance of public programs.
- The Estimates process remains increasingly complex and few parliamentarians possess the financial literacy to fully understand budget and financial documents. As a result, the information is difficult to find and to understand.

The difficulty in accessing information is complicated by the fact that even though many financial documents are provided to parliamentarians these documents do not offer a comprehensive and detailed description for all government activities. The table below provides a short description of the main documents tabled each year in Parliament to support the scrutiny of financial activities of the government. As we can notice, these documents are produced throughout the year (except during the summer break) and cover the entire budget cycle. Accordingly, parliamentarians can scrutinize public expenditures before the money is actually spent (ex-ante review) and after they were indeed spent (ex-post review). These ex-ante and ex-post scrutiny activities certainly help establish a sound accountability mechanism.

However, not all budget items (whether spending, revenues or loans) are reported systematically throughout the year. As we can see from the table below, the bulk of the information provided to parliamentarians centres on “voted” expenditures, which only amount to a third of total expenditures⁵. The remaining, classified as “statutory” or “legislated” expenditures, are not approved each year since they have already been authorized by previously adopted legislation. Therefore, it is argued, there is no need to approve them again. Consequently, parliamentarians are not asked to examine statutory expenditures each year. The same principle is applied to public revenues (taxes only need to be adopted once, in tax bills⁶), tax expenditures (also adopted in tax bills), and borrowing (only for amounts exceeding \$4 billion). Therefore, the systematic annual review of public revenues, tax expenditures and borrowing has not been included in the parliamentary budget cycle.

Annual departmental reports provide a partial remedy. These reports (Departmental Plans and Departmental Results Reports) aim to offer additional information to standing committees that

⁵ Treasury Board Secretariat. *Empowering Parliamentarians through Better Information* (Ottawa: Her Majesty the Queen in Right of Canada, 2017).

⁶ In the UK Parliament, all taxes must be approved each year.

examine Estimates of departments and agencies for which they are responsible. The objective is to provide context, to explain the relevance of programs (their objectives) and to assess their achievements (results). Although the intention to offer better information to parliamentarians is welcomed, in practice these reports never fully accomplished what they were supposed to do: helping parliamentarians to scrutinize how public funds are used⁷.

This is probably where the main issue lies. Over the years, reforms have attempted to correct the review of Estimates by providing more information (such as annual departmental reports). Yet, parliamentarians are not particularly concerned with Estimates. They want to examine and discuss programs and how public funds are used to serve the Canadian public, in general, and their respective constituents, in particular⁸. The current focus on voted expenditures does not allow them to perform this duty fully.

⁷ For a more detailed analysis of Estimates see Chenier, John A., Michael Dewing, and Jack Stillborn, "Does Parliament care? Parliament committees and the estimates", in *How Ottawa spends, 2005–2006: Managing minority*, edited by Bruce G. Doern (Montreal and Kingston: McGill-Queen's University Press, 2005), 200–221.

⁸ The Samara Centre for Democracy provides some interesting reports on the views of parliamentarians, based on MP surveys (sitting and former MPs). These reports can be found here: <https://www.samaracanada.com/research>. See also Dobell, Peter, and Martin Ulrich, "Parliament's performance in the budget process: A case study." *Policy Matters* 3 (5), 2000, 1–24.

Documents tabled to Parliament	Budget items	Budget cycle	Time of the year (before)	Focus on
Budget	Government future spending, revenues, tax expenditures, and borrowing	Ex-ante	Winter or spring	Government's Priorities
Estimates	Government current spending	Ex-ante	Winter (by March 1 st)*	Voted expenditures
Departmental reports:				
• Departmental Plans	Government past spending	Ex-ante	Spring (by March 31 st)	Voted expenditures
• Departmental Results Reports	Government future spending	Ex-post	Fall (by December 10 th)	Voted expenditures
Public Accounts	Government past spending, revenues and borrowing	Ex-post	Winter (by December 31 st)	Voted expenditures
Performance audits	Government past spending, revenues, and tax expenditures	Ex-post	Spring and fall	Selected programs

* The government's anticipated expenditures for the year are presented in the Main Estimates, which must be tabled before or on March 1st. Later in the year, however, it can request additional funds or authorization to reallocate funds already approved between programs. These additional requests are tabled as Supplementary Estimates. The normal parliamentary calendar set aside three periods to debate and approve Supplementary Estimates: one ending June 23 (for the consideration of Supplementary Estimate (A)); another one, December 10 (Supplementary Estimate (B)); and the third one, March 26 (Supplementary Estimate (C)).

3. Transparency and Agents of Parliament

In addition to the various budgetary and financial documents tabled by the government (including annual departmental reports), some information pertaining to existing programs is also provided to parliamentarians by agents of Parliament. The Parliamentary Budget Officer (PBO) produces cost analyses of proposals that might be examined by parliamentarians. These reports analyze the total costs and often the redistributive effect of proposals (Who benefits? Who pays? For how long? Etc.). The main function of the PBO reports is to provide financial information at the very early stage of the budget cycle (ex-ante), sometimes even before an initiative is placed on the government public policy agenda⁹. The Office of Auditor General of Canada (OAG)

⁹ For instance, the PBO has the mandate to determine the financial cost of any proposal over which Parliament has authority upon request from a parliamentarian (or parliamentarians) or a committee (committees). The PBO also

publishes performance audit reports. These reports examine the economy, efficiency and effectiveness (the three “E”s) of programs and report on management practices, control mechanisms, and reporting systems deployed in departments and agencies to operate programs. Performance audit reports are tabled in Parliament at the end of the budget cycle (ex-post) once funds have been used. The Standing Committee on Public Accounts has the responsibility to review these reports.

Parliamentarians have often praised the reports produced both by the PBO and the OAG. These agents of Parliament have the expertise, resources, and independence to conduct non-partisan and in-depth analyses of government activities. Furthermore, both the PBO and the OAG can direct the attention of parliamentarians on issues that otherwise would have been overlooked. On the other hand, not all proposals and programs are regularly examined by the PBO and the OAG. The PBO’s cost analyses are produced upon request from parliamentarians and parliamentary committees. These requests are not in great number and not all are answered. In 2019–2020 for instance, the PBO has published that it received 15 requests from parliamentarians and committees and produced 10 cost analyses¹⁰. The OAG has more discretionary power than the PBO, since it selects the programs that it will audit. These programs that are chosen are the ones judged the most significant and relevant for parliamentarians, by the OAG. Similar to the PBO reports, the number of performance audits remains small: between 25 and 30 programs or groups of programs are audited each year.

4. Assessing the Parliamentary Financial Scrutiny Function

It is undeniable that scrutiny, and in particular financial scrutiny, constitutes one of Parliament’s core responsibilities. Furthermore, parliamentarians devote a lot of time to hold the government to account, especially on the use of financial resources. However, not all government’s activities are scrutinized equally. Some budget items received much more attention than others, either because they must be reviewed regularly (such as Estimates) or in greater detail (performance audits). In addition, scrutiny takes on a different meaning at different stages of the policy process. The examination of the government’s budget focuses on the government priorities for the coming year. This type of scrutiny allows parliamentarians to discuss the general orientations taken by the government. On the other hand, the Estimates and annual departmental reports allow parliamentarians to examine the relevance of various specific spending plans of government in great detail. Special attention is given to why, where and how public funds are used. As for public accounts, they demonstrate to parliamentarians that all spending was duly

provides several analyses of the spending plans (Budget and Estimates) tabled by the government. Recently, its mandate was expanded to include the costing of election campaign proposals. The PBO also produces other reports and analyses such as studies on the state of the economy (for instance, its “Assessing the Sustainability of the Canada Pension Plan” report released in March 2021). These studies do not necessarily occur in the early stage of the budget process, however.

¹⁰ Office of the Parliamentary Budget Officer. *2019–20. Report on the Activities of the Parliamentary Budget Officer* (Ottawa: Office of the Parliamentary Budget Officer, June 22, 2020) 4.

authorized. Finally, performance audits seek to assess if public funds were used diligently by management (on the basis of the three “E”s – efficiency, effectiveness and equity).

5. The Scrutiny Function During the COVID-19 Pandemic

The government’s decision to act swiftly meant that parliamentarians were not able to scrutinize the emergency response to COVID-19 during its adoption. The main piece of legislation, the COVID-19 Emergency Response Act (Bill C-13), which contained 18 sections and 61 articles, was adopted in less than three hours by the House of Commons in March 2020. In exchange, however, parliamentarians gained the power to receive regular updates on the government’s response to the COVID-19 pandemic. Among other things, the Minister of Finance was required to appear every two weeks before the Standing Committee on Finance and to table a report concerning the implementation of some provisions of the Act (namely payments made in relation to public health events of national concern, borrowing, and interim orders related to the Employment Insurance Act). In addition, the Standing Committee on Finance would start reviewing the government response to COVID-19 six months after Bill C-13 received Royal Assent and report to the House by March 31, 2021. In total, the minister of Finance appeared before the committee ten times (and produced ten reports) until Parliament was prorogued. The COVID-19 Emergency Response Act, No. 2 (Bill C-14), was also adopted speedily, in April 2020. This time, the auditor general was instructed to conduct an audit on the spending and borrowing related to the pandemic. The general auditor findings are expected to be tabled before the House by June 1, 2021.

The review of Estimates was also impacted by the pandemic. Anticipating that Parliament might not be able to function normally, the government received authority to use special warrants even though Parliament was not dissolved. Except for the passing of emergency legislation, Parliament’s activities were indeed put on hold for several weeks (March, April, and May). Many parliamentary activities were therefore delayed. This was notably the case for the review of Estimates. While the Estimates and the annual departmental reports were tabled before the outbreak of the pandemic, standing committees only began to examine Estimates in the fall. Under normal circumstances, standing committees must report on Estimates by May 31. On the other hands, the government did introduce the appropriation bills according to the regular calendar, and other available authorities were sufficient to meet cash requirements. Therefore, special warrants were not used.

Agents of Parliament were also able to report regularly to Parliament, although COVID-19 undeniably impacted their activities¹¹. The PBO managed to produce several reports and legislative costing notes (61 and 70 respectively between April 1, 2020, and March 31, 2021), many of which related to the pandemic¹². The OAG was also active. A new auditor general was

¹¹ See for instance, the OAG blog on the impact of COVID-19 https://www.oag-bvg.gc.ca/internet/English/parl_fs_e_43616.html.

¹² Information compiled from data published on the PBO website: <https://www.pbo-dpb.gc.ca/en/publications--publications>. The 2019 general federal elections probably explain why they were not as many legislative costing notes in 2019 compared to 2020.

appointed during the summer, and the OAG presented its performance audits in the fall of 2020 and the spring of 2021 as well as its financial audit of the public accounts in November. Only the performance audits expected in the spring 2020 were delayed (they were tabled in the summer). Several performance audits related directly to COVID-19 have been undertaken (eight to date—two have already been published).

Parliamentarians were not able to scrutinize one important element. The government did not table a budget and therefore did not allow parliamentarians to examine and discuss its priorities for the coming year. In place, an economic and fiscal “snapshot” was presented in Parliament during the summer. This report provided an overview of the various measures related to COVID-19. On the other hand, the fall economic update was tabled in the House and examined by the Standing Committee on Finance. The committee also conducted its annual pre-budget consultations for the 2021-2021 budget. Contrary to other legislatures (such as British Columbia, Manitoba), no formal rules exist in the Canadian Parliament to force the presentation of a budget by the government. Over the years, however, the budget has become an essential element of the budget cycle.

The pandemic has forced the Canadian government to spend an unprecedented level of public funds (including tax expenditures), since World War II. New programs were launched, the deficit reached record levels, and departments and agencies had to adjust rapidly to take on new responsibilities. The government was awarded considerable power to pass legislation rapidly by Parliament. Bills that requested the use of billions of dollars were adopted in a few hours only, with a limited time for debates. It turns out, however, that this speedy process came with more scrutiny. In exchange for rapid adoption of its bills, the government had to report regularly to parliamentarians on the progress of the implementation of various measures. Several reports on the management of the pandemic are also expected in the future (from standing committees, and agents of parliament). There are no guarantees, however, that all the emergency initiatives implemented by the government will be examined in detail. As we have seen above, once a new program is adopted it is not systematically reviewed by parliamentarians. The same goes for tax expenditures and borrowing. The pandemic has changed how scrutiny is performed, yet the changes will not be permanent, unless parliamentarians themselves adopt new rules (either by changing the standing orders or by adopting new legislation)¹³.

6. Recommendations

The Treasury Board Secretariat has tried to improve the Estimates process in 2017, by including budget proposals in the Estimates. This reform was not supported by parliamentarians, however, who rapidly denounced the new initiative. As some public officials told us, any major changes to the Estimates process and more broadly to the scrutiny of public funds would have to be initiated

¹³ The scrutiny function of Parliament was also enhanced during another major crisis, the global financial turmoil of 2008–2009. The conservative government was compelled to table interim quarterly reports to Parliament to report on the progress of its Budget 2009 stimulus plan. This new scrutiny measure was temporary. It did not lead subsequently to permanent changes of Parliament rules.

by parliamentarians themselves to be afforded credibility. They have the power to do so, by passing legislation or changing the standing orders of the House.

Notwithstanding the previous observations, the government can take some actions, or initiate some discussions with parliamentarians.

- The fact that the budget is usually tabled after the Estimates remains contentious. The government should seriously consider changing the budget calendar¹⁴, and table the budget before the Estimates. The Estimates would then include the new budget initiatives. Whether the budget should be presented on a fixed day (as it is currently done in British Columbia and Manitoba) or not (as most Westminster systems) remains open for debate.
- The annual departmental reports have been established to support the review of the Estimates. The content of these reports has changed over the years to improve the quality of the information presented to parliamentarians. However, the information provided in these reports remains questionable as parliamentarians still find them difficult to read and use (see the latest report from the Standing Committee on Government Operations and Estimates¹⁵). The main difficulty seems to lie in providing complete and comprehensive information on all programs to parliamentarians. At present, a parliamentarian that would like to know how much a specific program costs could not find this information in the departmental reports.

However, this information now exists elsewhere outside Parliament, by accessing the Infobase website. This new website is an interactive search dataset created by the Treasury Board Secretariat to provide information on budgets, staff and results for all federal programs. Furthermore, it also provides disaggregated financial data, such as voted and statutory expenditures, planned and actual spending, operating expenditures, capital expenditures, transfer payments, etc. Currently most of the information covers the last two years. The infrastructure now exists to expand this period. Infobase provides a good illustration how new technologies (such as an online interactive research dataset) can be used to enhance the information provided to Parliament. At present, however, Infobase showcases itself as “An interactive tool, transforming complex federal data into simple visual stories for Canadians”¹⁶. In the future, the website could be designed primarily for the use of parliamentarians and be a complement or even a substitute to the reports tabled in Parliament.

- Because they have obtained previous spending authorization, many programs are not reviewed regularly (statutory expenditures, tax expenditures, taxes, loans). The COVID-19 pandemic has emphasized, however, that parliamentarians do desire to review all public policies that have been adopted. To address this issue, the government could

¹⁴ It should be pointed out, that parliamentarians can also force the government to table the budget on fixed date (by passing legislation or changing the Standing Orders).

¹⁵ *Improving Transparency and Parliamentary Oversight*, op. cit.

¹⁶ <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#about>.

include in its bills a parliamentary review mechanism. For instance, a Standing Committee could be mandated to study a program periodically (every year, three years, five years, etc.). Such a mechanism would allow parliamentarians to scrutinize regularly programs that are not funded by voted expenditures¹⁷.

What Parliamentarians can do:

- Agents of Parliament and parliamentary committees both play a crucial role in the scrutiny of government actions. Agents of Parliament, which report to committees¹⁸, possess the expertise, independence and resources that parliamentarians lack. Over the year, the PBO and the OAG have provided valuable support to parliamentarians to examine various government proposals as well as the performance of programs. A comment that we often heard from public officials was that parliamentarians needed some guidance to formulate their questions to public managers and ministers. A parliamentary body, similar to the UK Parliament Scrutiny Office for instance, could help them better understand the Estimate process and direct their attention to the main issues to address when Estimates are examined¹⁹.

¹⁷ For a more detailed analysis of “post-legislative scrutiny” see The Journal of Legislative Studies issue on *The Significance of Post-Legislative Scrutiny*, 26, no. 3 (July 2020).

¹⁸ To be more precise, the reports of the OAG are immediately submitted to the Standing Committee on Public Accounts once they are tabled in Parliament. There are no similar provisions for the BPO, although this officer regularly testifies at committees (especially at the Standing Committee on Finance).

¹⁹ The Scrutiny Office undertakes, among other things, systematic reviews of Main and Supplementary Estimates and Departmental Annual Reports. The Scrutiny Office produces written questions for departments (and sometimes briefing for oral evidence sessions), after discussion with the relevant select committees. For more information, see <https://www.parliament.uk/mps-lords-and-offices/offices/commons/scrutinyunit/>.