

# Tackling the COVID-19 pandemic : Lessons learned and paths forward

Lord, Phil <sup>1</sup>

<sup>1</sup> Bora Laskin Faculty of Law, Lakehead University

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## ABSTRACT

*This Research Note draws upon the paper I presented at the conference, published in the Manitoba Law Journal, to consider the persisting issues governments face as they continue to respond to the COVID-19 pandemic. It critically assesses the development of the responses discussed in our article, as well as the recommendations we provided. These insights may prove valuable as we chart the path forward.*

In April of 2020, my co-author and I did what I assume most sane people also did while subject to stay-at-home orders: we wrote a full-length law review article on government responses to the COVID-19 pandemic (@lord\_tackling\_2020). We drew from constantly changing, sometimes obscure, government websites. Programs were revised as quickly as they were announced and rolled out. We wrote our initial draft in just under two weeks, and we had to revise significant portions of it almost immediately, and subsequently when we received feedback from peer reviewers. Although we aggressively disseminated our draft

on research repositories, the final, paginated version was only printed a full year later.

I describe these circumstances to emphasise the challenges researchers faced in providing crucial input regarding pandemic responses. These challenges created significant barriers to research generation and dissemination, especially for early-career and pre-tenure academics, and yet more so for women and other historically marginalised groups (@lord\_covid-19\_2021; @blundell\_covid-19\_2020; @immet\_unequal\_2022). These groups disproportionately bore the impact of the pandemic.

As a (privileged) aspiring scholar, I tried to do my small part by quickly writing an article, knowing that it would likely never be published in traditional fora. The fact that it was is a testimony to the flexibility and support of the peer reviewers and student editors who had to fulfil their mandates with highly unusual (and unreasonable) promptness. More broadly, many other scholars heeded the call to serve and produced important and timely research regarding the COVID-19 pandemic (@pericas\_profile\_2020; @takagi\_covid-19\_2020), often at a significant personal or professional cost.

Our article critically assesses government responses to the COVID-19 pandemic (@lord\_tackling\_2020). We focus on Canada and draw limited comparative insights to the United States, where very similar measures were implemented to favour employment. We discuss the main pillars of this response: a broadening of access to and eligibility for unemployment programs (mainly unemployment insurance) and the indirect provision of liquidity to the financial system through independent and semi-independent government entities (such as central banks and mortgage insurance public corporations). We argue that these measures unduly rely on the good faith of private actors to

take measures which are often against their own financial interest. Unfettered access to temporary layoffs, especially when coupled with greater access to unemployment programs, creates an incentive for companies to lay off their employees to absorb the impact of public health restrictions. We argue that this response, which shifts cost and risk from private actors to the state, is unsustainable, especially given the stringency of public health restrictions and the wide range of private actors who can benefit. We further argue that these issues are exacerbated by the already increasing segment of the population which is classified as independent contractors or otherwise not classified as employees (both categories do not pay into the traditional EI system). Finally, we make a similar argument regarding independent and semi-independent government entities. We note that the Canadian government has injected liquidity into the capital market, the banking system, and the housing sector, all without correlative obligations requiring private actors to use the funds to assist those the government hopes to target.

Just under two years after we wrote our first draft, this is an opportune time to assess how government responses to the pandemic evolved. First, and interestingly, not much changed. While the Canadian government fine-tuned some of the programs, notably to remedy unintended inequities (@lord\_tackling\_2020, pp. 31-32), the programs remained largely unchanged. Even as a labour shortage intensified in some parts of the country (@chan\_covid-19\_2020; @rendell\_12\_2021), the federal government kept providing unconditional cash payments to those who do not have a job. What was initially the Canada Emergency Response Benefit (CERB), providing a \$2,000 monthly benefit to the unemployed, morphed into the Canada Recovery Benefit (CRB), limiting the same benefit to \$300 per week after 42 weeks (@government\_canada\_after\_2021). Programs that were hastily

implemented to avoid deep and persisting economic consequences were rarely subsequently questioned or amended. This is surely in part a result of their wide popular appeal and support.

There is little doubt that these programs fundamentally redefined the role of the Canadian federal government. The cost of these programs far exceeded the cost of responding to *typical* financial crises (@lord\_tackling\_2020). They significantly added to the social safety net, and their continued existence will likely create an expectation on the part of most Canadians that they will at least be implemented again in response to future recessions, and might continue to exist in some form beyond times of crisis. This redefinition of the role of government happened largely without democratic input. Even in Canada, a Parliamentary democracy where the ruling party formed a minority government, these programs were devised and implemented in an almost complete absence of parliamentary and popular input. Unfortunately, this appears to be typical across the world (@waismelmanor\_covid-19\_2020; @cormacain\_legislatures\_2020; @lord\_tackling\_2020).

The main program created by the Canadian government to respond to the financial impacts of the pandemic bears close resemblance to a universal basic income (@fleischer\_architecture\_2020). It provides unconditional cash payments to those who confirm that they are unemployed. When construed as such, the program is poorly designed – as one would expect given the promptness with and purpose for which it was designed. Indeed, this is the most salient issue I have consistently emphasised in my conversations with journalists. Conceptually, providing assistance directly to Canadians works. We should salute the government's innovation. In prior recessions, governments were content with indirectly assisting Canadians, for instance by seeking to stabilise the capital market

(@lord\_tackling\_2020, p. 37). However, almost all economists would agree that the program implemented by the Canadian government is not an efficient way to design a universal basic income. The benefit is provided unconditionally and as a lump sum. Individuals lose it entirely if they choose to work. Additionally, as first designed, the benefit exceeded the minimum wage (@lord\_tackling\_2020, pp. 10-11). These issues point to the importance of deliberate design, even in times of crisis. More deliberate design undoubtedly requires both democratic and scholarly input. As noted, many scholars offered to help in this time of crisis, often at great personal and professional cost. Their voices should have been, and can still be, honoured.

The problems we highlighted when we wrote our first manuscript almost two years ago, especially the cost and unintentional design of government programs related to the pandemic, have grown more pressing and shown eerily prescient with the advent of the Omicron variant (@karim\_omicron\_2021). Some question whether we will ever move beyond the pandemic, and, even if we do, its impact on our conception of the role of government will remain significant. As they seek to chart the path forward, government should be more intentional, and mindful of those who have much to contribute.

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