

Parliamentary scrutiny during the COVID-19 crisis

New Zealand shut down its parliament, but found a non-partisan alternative to maintain accountability.

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INTRODUCTION¹

And today on the big questions, in this House and in New Zealand we agree, there's no National or Labour, or Green or ACT or New Zealand First, just New Zealanders.

Simon Bridges, New Zealand Opposition Leader²

In the last week of March 2020, New Zealand's Parliament voted to adjourn for about five weeks (till the 28th of April).

Before Parliament adjourned, it – by consensus – established the Epidemic Response Committee, a special select committee to examine the Government's response to the COVID-19 outbreak.

The committee is chaired by the Opposition Leader, Simon Bridges (National Party), and has an opposition majority. All political parties are represented on the committee, but ministers are not permitted. The committee will sit three days a week (via teleconference) at least until Parliament resumes. It will be livestreamed to the public.

¹ For details, see the motion to establish the committee and the debate in Hansard: Hansard Reports, New Zealand Parliament (2020) *Business of Select Committees — Epidemic Response Committee*, https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20200325_20200325_24

² Bridges (2020) *Bridges' full speech on State of Emergency*, <https://www.newsroom.co.nz/2020/03/25/1100027?slug=simon-bridges-full-speech-on-state-of-emergency>

The committee will have the powers of a Privileges Committee to “send for persons, papers and records”.

BENEFITS

Scrutiny and keeping the work of Parliament going

There are New Zealanders up and down the country right now doing things that make themselves feel very uncomfortable. There are people who don't know where they'll be when this period ends, and Parliament, to some extent, finds itself in that position as well. So I do want to acknowledge that. I want to acknowledge that scrutiny during this unprecedented time, when the Government is placed in the position of exercising such extraordinary powers, has never been more important.

Chris Hipkins, Leader of the House (Labour Party)³

The Epidemic Response Committee represents a compromise between the government of New Zealand, which closed Parliament for public health reasons, and opposition parties (the National Party and ACT New Zealand),⁴ which wanted to keep Parliament open to keep the government accountable.⁵

Accountability is particularly important since governments will exercise broad, new powers during the outbreak. In Australia, the government has unprecedented control over social security payments and a \$40 billion discretionary “advance”.⁶

Parliamentary scrutiny and responsible government will be particularly important in Australia, where parliament has been adjourned for five months (till August; with the

³ Hansard Reports, New Zealand Parliament (2020) *Business of Select Committees — Epidemic Response Committee*

⁴ The National Party is New Zealand's centre-right major party. ACT New Zealand is a classical liberal minor party, named after the Association of Consumers and Taxpayers (ACT).

⁵ Cooke (2020) *Coronavirus: Parliament will close until late-April, replaced with Simon Bridges-chaired select committee*, <https://www.stuff.co.nz/national/health/coronavirus/120526301/coronavirus-parliament-will-close-until-lateapril-replaced-with-simon-bridgeschaired-select-committee>

⁶ Coorey (2020) *\$40b more for the “toughest year of our lives,”* <https://www.afr.com/politics/federal/morrison-ready-to-unleash-another-40b-20200323-p54cu1>;
Klapdor (2020) *Huge: Government amendment to the Coronavirus Omnibus Bill will allow the Minister to change ANY eligibility criteria and ANY rate of payment for ANY social security payment via a legislative instrument until 31/12/20* <https://t.co/H5mQIPnZBZ>,
<https://twitter.com/whobekindto/status/1242051234728566785>

exception of a one-day sitting on the 8th of April). Opposition Leader Anthony Albanese and Greens Leader Adam Bandt have already expressed concern that parliament will not be able to scrutinise unprecedented new spending.⁷ In New Zealand, politicians were not convinced by the argument that other parliaments were adjourning for more than five weeks, with ACT New Zealand Leader David Seymour saying:

I've heard it said that other parliaments are actually adjourning for longer than ours. I don't think that's leadership. I don't think any leader aims to be the world average or worse.⁸

In his opening words on the motion, Shadow Leader of the House Gerry Brownlee (National Party) expressed the need for such a committee in parliament's absence:

This is, I think, a very good motion that recognises the fact that all Governments take their legitimacy from Parliament—all Governments, that is, in democratic countries. So what we are going to see here is, firstly, today, the extraordinary availability of funds voted by the Parliament for the Government to deal with this crisis, and now, as the Parliament is likely to agree to adjourn very shortly for a longer period of time, a committee that during that time will be able to scrutinise the activities of the Government in the expenditure of that money, and in particular to ensure that there is a focus, as I think is the will of the whole House, on the wellbeing of New Zealanders who are most adversely affected by this virus and its fallout.⁹

The New Zealand government has welcomed the move. Minister and Leader of the House, Chris Hipkins, specifically acknowledged that the government would make mistakes because it must act quickly and without perfect information and said that the committee will ensure those mistakes are picked up and remedied.¹⁰

⁷ SBS News (2020) *Federal parliament to shut until August as coronavirus causes revised schedule*, <https://www.sbs.com.au/news/federal-parliament-to-shut-until-august-as-coronavirus-causes-revised-schedule>

⁸ Hansard Reports, New Zealand Parliament (2020) *Business of Select Committees — Epidemic Response Committee*

⁹ Hansard Reports, New Zealand Parliament (2020) *Business of Select Committees — Epidemic Response Committee*

¹⁰ Hansard Reports, New Zealand Parliament (2020) *Business of Select Committees — Epidemic Response Committee*

Non-partisanship and expertise

New Zealand's Epidemic Response Committee is chaired by the Opposition Leader and has representatives from all political parties. This allows the Opposition and other parties to remain constructively involved in the COVID-19 response.

Australia does have a bipartisan body to oversee the COVID-19 outbreak: the National Cabinet. The National Cabinet includes the Premiers and Chief Ministers of the states and territories, five of whom are members of the Labor Party. However, it does not include federal Opposition Leader Anthony Albanese.

Calls for Albanese to be invited to join the National Cabinet have come from Deputy Opposition Leader Jim Chalmers, Cheryl Kernot and former advisor to John Howard Paula Matthewson.¹¹

There is also historical precedent. During World War 2, Prime Ministers Robert Menzies and John Curtin chaired an Advisory War Council made up of members of the War Cabinet as well as the Opposition Leader and three members of the opposition. When Curtin became Prime Minister, the Council mostly replaced the Cabinet.¹²

Bipartisanship experts Scott Hamilton and Stuart Kells go further, arguing that as well as Albanese the National Cabinet could include Kristina Keneally and Richard Marles, as well as respected former politicians like Julia Gillard and Mike Baird. Kernot suggests that other expert parliamentarians, such as the Independent Helen Haines (who has a public health background) could also be included.¹³

Instead of or as well as expanding the National Cabinet, establishing a Select Committee including representatives from all parties would be a chance to represent these voices while Parliament is adjourned.

¹¹ Hamilton & Kells (2020) *Opinion: Time for a real war cabinet — and one based on capability, not ideology*, <https://www.themandarin.com.au/128235-opinion-time-for-a-real-war-cabinet-and-one-based-on-capability-not-ideology/>; Matthewson (2020) *Coronavirus politics: Morrison must reach out to Albanese*, <https://thenewdaily.com.au/news/politics/australian-politics/2020/03/20/coronavirus-paula-matthewson-war-cabinet/>

¹² Campbell (2005) *The War Cabinet & Advisory War Council*, <http://john.curtin.edu.au/behindthescenes/cabinet/index.html>

¹³ Hamilton & Kells (2020) *Opinion: Time for a real war cabinet — and one based on capability, not ideology*

THE COMMITTEE'S FIRST WEEK¹⁴

New Zealand's Epidemic Response Committee met three times on the week of the 30th of March, just days after it was established. The committee uses the commercial teleconference software Zoom to conduct its meetings remotely and broadcast them live to the public.

During its first week, the committee questioned representatives from the government on a variety of topics, including:

- Why bakers and butchers have been forced to close while supermarkets remain open.
- The risks of testing for symptoms at the border (for example, if asymptomatic people are not identified).
- When updated unemployment figures will be available (the government confirmed it would be a matter of days).
- Why the government has given daily health updates but not daily economic updates.
- General confusion over what will happen with rents (ad hoc agreements between lessor and lessee vs the government imposing rent relief).
- Reports that airports are not enforcing the 1.5 metre social distancing requirement.

The committee has also heard from experts outside of government, who have given information on topics like what shape the economic recovery will take and why it is important for the recovery that public servant jobs are secure.

AUSTRALIAN CAPITAL TERRITORY¹⁵

Since the initial publication of this report, the Australian Capital Territory Legislative Assembly has established the Select Committee on the COVID-19 response. The committee, which is chaired by Liberal Opposition Leader Alistair Coe, has representatives from all parties, and can hear from ministers, public officials and

¹⁴ See "Further reading" for more details.

¹⁵ ACT Legislative Assembly (2020) *Select Committee on the COVID-19 response*, https://www.parliament.act.gov.au/in-committees/select_committees/select-committee-on-the-covid-19-response; Jervis-Bardy (2020) "We need scrutiny": Assembly committee to probe COVID-19 response, <https://www.canberratimes.com.au/story/6708538/we-need-scrutiny-assembly-committee-to-probe-covid-19-response/>

others. The committee can consider and report on the ACT government's health and financial response and any other matter relating to COVID-19 and the ACT.

The Legislative Assembly will only meet once a week, but has not been suspended.

CONCLUSION

As New Zealand shut down its parliament for five weeks, it founded a new and creative institution to help fill the accountability gap: an all-party, Opposition-chaired special select committee with broad powers regarding calling witnesses and the provision of documents. The Opposition Leader has promised to use the committee constructively, and the government have thanked him for doing so – and agreed that the unprecedented emergency means that there will be mistakes that the committee can help fix.

Australia has shut down its parliament not for five weeks but five months. Accountability is more important than ever as the government exercises broad new powers and spends tens if not hundreds of billions of taxpayers dollars. The Australian Parliament could do with a similar committee, not just for accountability, but to represent other voices: including the Opposition Leader, but also minor parties and independents – some of whom are public health experts in their own right.

In these unprecedented times, it is not just economic policy and health policy that requires creativity and innovation; our democratic structures need to be similarly responsive.

FURTHER READING

Epidemic Response Committee homepage:

<https://www.parliament.nz/en/pb/sc/scl/epidemic-response/>

What is the Epidemic Response Committee? explainer from New Zealand Parliament:

<https://www.parliament.nz/en/get-involved/features/covid-19-what-is-the-epidemic-response-committee/>

Hansard debate on the motion to establish the Epidemic Response Committee,

including speeches from members of all New Zealand political parties:

https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20200325_20200325_24

Initial reporting on the Committee:

<https://www.stuff.co.nz/national/health/coronavirus/120526301/coronavirus-parliament-will-close-until-lateapril-replaced-with-simon-bridgeschaired-select-committee>

Reporting on the first week of Committee hearings:

- Day 1, “Covid-19: Questions fired in first Epidemic Response Committee meeting”: <https://www.rnz.co.nz/news/political/413008/covid-19-questions-fired-in-first-epidemic-response-committee-meeting>
- Day 2, “Epidemic Response Committee holds second meeting”:
<https://www.rnz.co.nz/news/political/413116/epidemic-response-committee-holds-second-meeting>
- Day 3, “Epidemic Response Committee holds third meeting”:
<https://www.rnz.co.nz/news/political/413231/epidemic-response-committee-holds-third-meeting>