

CASE STUDIES FROM CPA PARLIAMENTS: CANADA

Bonne après-midi à tous les parlementaires, hauts fonctionnaires de parlement, et autres participants.

I will be speaking to you in English, but as a Canadian, I could not address an audience in Paris without saying a few words in French.

My name is Jill Anne Joseph, and I am a Table officer and the strategic planner for the Senate of Canada. I appreciate this opportunity to address you, given my deep interest and involvement in the subject-matter, as I had a direct hand in preparing the response provided by Canada's Parliament to the CPA benchmarking questionnaire.

As a planner and the manager responsible for outsourcing and supervising our internal audits, and for monitoring and reporting on our performance, I fully recognize that the establishment of standards or benchmarks are the foundation of any evaluation. The mere presence of standards is proven to have the immediate effect of improving performance. The simple truth is, what is measured improves.

In the Senate of Canada, we create internal operational standards to measure and monitor performance; and we use the Treasury Board Secretariat's management improvement criteria to progressively improve 21 areas of management.

Treasury Board is an agency of government that has the mandate of supporting a committee of ministers to ensure value-for-money in government operations.

The Treasury Board Secretariat fulfils the broader mandate of making recommendations and providing advice to the Treasury Board with respect to the management of the government's resources, thus their establishment of criteria on how to manage well. Despite coming from a departmental environment, the Senate has found these criteria both relevant and useful in the legislative arena.

Functional benchmarking, which identifies the best practices for similar activities, is a basic tool as crucial to the parliamentary context as to any other, if not more

so. The ongoing work of the CPA, IPU, APF and others to develop benchmarks and assessment frameworks for democratic parliaments is destined to contribute to the improvement of democratic legislatures around the world. Although this won't happen through the immediate achievement of the identified principles, at the very least it will raise consciousness of the indicators of a successful democratic legislature and the goals that these represent — for there is not a responsible legislature out there that doesn't aim to be more productive and more representative of its citizens.

As you endeavour to reach consensus on the various standards and principles that have been so admirably developed by your respective organizations, I wish to summarize the Canadian experience in applying the CPA's Benchmarks for Democratic Legislatures.

The standards or benchmarks listed in the CPA questionnaire were, from my viewpoint, remarkably well thought out and easy to assess for anyone knowledgeable about their parliamentary system. The language was neutral and there was no specific methodology imposed for a country to evaluate itself against the criteria. As I'm sure you would agree, this had the benefit of being non-threatening. However, the absence of a specific rating methodology may have resulted in a lack of uniformity of the data collected. But uniformity of data was not likely a primary objective of this survey; the stimulation of discussion on benchmarks probably *was*, and the survey provided us with more than enough food for thought and discussion.

Some benchmarks seemed to be more mandatory in nature, using the word "shall" while others appeared to offer guidance, using the word "should". It was evident that the reality of appointed upper chambers was considered, which was to be expected within the Commonwealth context. Several questions made reference to the "popular" House, from which one might infer that our appointed upper chambers are "unpopular". This does seem to be the case at times with the media and the public in Canada, even while they so often acknowledge the excellent work of our senators.

Benchmarks that a student of parliamentary government might expect to have seen, such as oversight of delegated legislation or regulations, or powers to prorogue, were not provided for in the survey. The benchmarks articulated clear principles, but in the absence of a rating scale to measure partial compliance, there was a risk that self-assessments might be subjective and that partial or qualified compliance was not assessed.

A good number of the benchmarks are indicators of a well-functioning democratic parliament that, frankly, we take for granted in Canada. The benchmarks caused me to reflect more than once on the democratic deficit that many countries with more fragile democracies must endure. We also recognized the possible shortcomings of our own federal parliament. Where we were not in full compliance with a standard, there was an opportunity to reflect on why we found our parliament in such a position, what sorts of risks this represented, how we might rate ourselves on the devised scale, and why. We found tremendous value in the exercise for parliaments at all stages of development, and I congratulate the creators of the survey for that.

The methodology that my Commons colleague and I implemented was taken from the options proposed in the CPA cover letter accompanying the questionnaire. It suggested either straight yes-no assessments or the use of ratings. We developed a simple 5-point scale, with 5 indicating that our Parliament fully meets the benchmark, a rating of 4 as partially meeting the benchmark, of 3 as currently developing processes to implement the benchmark, 2 as reviewing the potential application of the benchmark, and 1 as no current plan to meet the benchmark. All ratings of less than 5 were accompanied by an explanation, while a few of those rated 5 also had explanations attached to differentiate between Senate and House procedures or other practical applications. While the majority of the 87 benchmarks rated clearly as 5s, there were 10 occasions where one or the other of our two federal houses did not fully meet the standard and a rating of 4 was assessed. There were no 3s or 2s, and two occasions of a 1, indicating little to no plan to comply with the benchmark. The low ratings of 1 are of particular interest, and will merit further explanation.

The benchmarks sometimes made reference to the existence of a formal codification of the standard or principle, and in some instances where Canada was fully compliant in spirit, but no codification existed, we gave a rating of 4. An example of this was the benchmark, “Special measures to encourage the political participation of marginalized groups shall be narrowly drawn to accomplish precisely defined, and time-limited, objectives.” This is not something done by our Parliament or Elections Canada, but rather by individual political parties, which may have much to gain in Canada’s cultural mosaic by applying this standard.

The ratings of 4 resulted primarily when one or the other house was not in compliance. For example, the Senate Speaker is not selected or elected by fellow senators following rules of procedure, but is appointed by the Governor General on the advice of the Prime Minister. Another 4 rating noted that neither Senate nor Commons committees can summon Ministers or Parliamentary Secretaries from the executive branch, although the practice is that they usually agree to appear. Others, such as senior bureaucrats or officials, can be summoned.

The non-compliant ratings of 1 were perhaps indicative of the age of our constitution and of our form of government. In one instance, a rating of 1 was given because the Senate – an unelected body – has full powers to reject a money bill. This, in fact, has never happened with regard to Supply or Appropriations Bills. The other rating of 1 reflected that our Parliament has no right to override an executive veto. However, this benchmark seemed more appropriate to a congressional-style system, not one where our government is fused into Parliament, which is exclusively responsible for granting the necessary approvals. The Crown’s powers, as distinct from Cabinet, are in practice very limited, and have never in Canadian history extended into legislative veto.

Preparing the preliminary responses to most benchmarks was relatively straightforward for a Table officer such as myself. However, other benchmarks required a parliamentarian’s or other expert opinion. Therefore, a preliminary set of responses was prepared and submitted to Table Research in the Commons and its Senate equivalent – the Procedure Office – in order to research incomplete

responses and validate those provided. Gaps where expert advice was sought included such benchmarks as “meeting international standards for genuine and transparent elections”. While we anticipated full compliance, we felt unqualified to attest as much, and ensured that relevant offices at Elections Canada, among others, were consulted before providing the response.

The final draft was then sent to the Clerks of both Houses to confirm consensus, and then to parliamentarians - the Executive of the CPA’s Canadian Group - for final review, validation, sign-off and submission to CPA headquarters.

The benchmarks where the Parliament of Canada scored less than full compliance created a practical checklist for any serious debate of modernization or democratic reform. Our self-awareness about our Parliament has benefited enormously. This is not to say that we do not enjoy a healthy democracy, only that the CPA benchmarks provided a summary of best practices that should be considered to make it even healthier.

In an address to the IPU on the CPA benchmarks, the Honourable Senator Donald Oliver noted that this evaluation exercise provided “a useful starting point for any future reforms.” He further expressed an eagerness to build on the lessons learned and to share practical advice for the application of these standards to other parliaments. As members of the CPA, Canadians would urge all of our fellow members to complete the self-assessment, for what is measured, improves.

Merci!