



# Pandemic Backsliding – A Closer Look at Canada

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# **Pandemic Backsliding – A Closer Look at Canada \***

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## **Abstract**

The author reviews the V-Dem data employed in assessing the impact in Canada of pandemic responses on democratic institutions, and proposes additional information which, if incorporated, would result in reclassification of Canada from “low risk” to “medium risk” of pandemic backsliding. Alternatively, a finer-grained examination is recommended.

## Introduction

This is a brief review of the data upon which Canadian risk of pandemic backsliding was assessed for purposes of the following paper: Edgell, Amanda B., Anna Lührmann, Seraphine F. Maerz, Abdalhadi Alijla, Vanessa Alexandra Boese, Tiago Fernandes, Adea Gafuri, Dominik Hirndorf, Christopher Howell, Nina Ilchenko, Yuko Kasuya, Jean Lachapelle, Juraj Medzihorsky, Asma Shakir Khawaja, Carlos Shenga, Medet Tiulegenov, Hans H. Tung, Matthew Charles Wilson and Staffan I. Lindberg. 2020. Democracy and Freedom During Covid-19, Version 1.0. V-Dem Institute.

The paper presented a comparative classification of **26 indicators** of impact of pandemic responses on democratic institutions and practices in 142 countries. It is a companion piece to the following policy brief, which is linked to the underlying country data: Anna Lührmann, Amanda B. Edgell, Seraphine F. Maerz, “Pandemic Backsliding: Does Covid-19 Put Democracy at Risk?” V-Dem Institute, No, 23, 2020. The latter report explains the significance of the indicators. Complete fulfilment of one or more criteria is necessary condition for finding of **‘high risk’** of pandemic backsliding and partial fulfilment of one or more criteria is sufficient basis for a finding of **‘medium risk’**.

## The Canadian Classification

On the data provided, Canada is classified as **‘low risk.’** This might be a contestable assessment. For example, explanatory comment for **Indicator 1 (Emergency measures legal instrument (emlaw))** states that traveler mandatory hotel quarantine measures are limited to *foreign nationals* entering Canada, whereas in fact they also applied to Canadian citizens. As the government website clearly stated, “Travelers entering Canada, regardless of citizenship, must follow testing and quarantine requirements to keep everyone safe.” (Government of Canada, 2021). A question arises whether measures for national border restrictions and traveler mandatory hotel quarantine when entering Canada that apply not only to foreign nationals but also to one’s own returning citizens are a “state of exception,” defined as a period during which one person or the government has enhanced powers and authority to limit rights and freedoms beyond what the law ordinarily allows.” If so considered, such measures would fall into Category 4 “Other Legislation” rather than into Category 6 “no national level emergency response.” **Indicators 2 to 8** were skipped, based on the selection for Indicator 1 of Category 6 “no national level emergency response.”

Another example is found under **Indicator 9 (Legislature limitations (leglimit))**, asking specifically how the emergency measures have affected the lawmaking powers of the legislature. The data employed are used to classify Canada as Category 1 (“No, not at all. The lawmaking role of the national legislature is not affected.”) rather than as Category 2 (“Very little. The legislature has given the executive branch the power to relatively widely interpret Covid-19 related laws, but not to rule by decree.”) or, perhaps, even as Category 3 with respect to the mandatory hotel quarantine order. (“Somewhat. The executive branch has the right to rule by decree on several, narrowly Covid-19 related issues such as deciding on physical distance measures and measures to support the healthcare system.”) The explanatory comment simply states: “No indications have been found that the national parliament’s power has been limited. This is therefore coded as 0.”

This categorization is, importantly, contestable based on the truncation of the legislature’s consideration of initial emergency measures (Thomas, 2020, 4; Lum, 2020), the significant reduction of the legislature’s sitting days and representative character (Rayment and VandenBeukel, 2020, 3; Lum, 2020), the government’s failure to comply with normal annual budget submission to the legislature (The Canadian Press, 2020; Sherriff-Scott, 2021), and the decree-making regulatory power to order all travelers entering Canada into hotel quarantine (Government of Canada, 2021), particularly in light of the widely acknowledged (by domestic scholars) pre-existing weakness of the Canadian national legislature vis a vis its executive (Bakvis, 2000,61).

It might also be noted that **Indicators 13 to 23** rely upon the absence of reports of concerns from international advocacy groups about any relevant Canadian measures. This reliance is based upon the assumption that such groups were actively and sufficiently monitoring Canadian measures during the specified time periods. A circular element to this assumption might arise from the widespread categorization of Canada as a stable democracy, deservedly or not, resulting in lesser or inadequate levels of scrutiny by such agencies. Closer study to determine whether the reference groups in fact conducted any examination of Canadian measures during the relevant time frames would test this assumption.

## Conclusion

The significance of these qualifying observations is that Canada would merit **“medium risk”** classification upon recategorization as “partial” of either (a) border closure & mandatory traveler

quarantine (Indicator 1), or (b) legislature limitations (Indicator 9). It should be noted that the existing classification is, in turn, employed, for example, in the ‘Legislative Responses to COVID-19 Tracker’ developed by researchers at the Westminster Foundation for Democracy (WFD) and therefore influences the classification of Canada’s status in that index (Gordon & Cheeseman, 2021).

In any event, a more fine-grained analysis of the impact on the Canadian national legislature’s performance under emergency measures would shed additional light on this question.

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