The Democratic Audit of Australia

The Democratic Audit of Australia is led with integrity and commitment by Professor Marian Sawer from the ANU. The Political Science Program in the Australian National University's Research School of Social Sciences is conducting the Audit to assess Australia's strengths and weaknesses as a democratic society. It is a project worth the support and active involvement of all of us.

The following are some details on the audit and a selection of examples of their materials available on the web. Not only should these articles be accessed and discussion encouraged either directly with the Audit or through the pages of this journal, but again I believe the audit is of vital importance in these times when democratic values are once more under strain. It is an activity that also could be reproduced as State level.

Your editor

Summaries of recent articles

- *Draft Anti-Terrorism Bill 2005: Human Rights Implications*

  In the interests of public consultation over the controversial draft Anti-Terrorism Bill 2005 ACT Chief Minister Jon Stanhope has published the 'in-confidence Bill' on his website. http://www.chiefminister.act.gov.au/whats_new.asp?title=What's%20New. He has also published a review of the human rights implications of the Bill, commissioned from human rights lawyers Hilary Charlesworth, Andrew Byrnes and Gabrielle McKinnon. They conclude that the Bill breaches a number of Australia's obligations under the International Covenant on Civil and Political Rights. In particular they consider:

a) The preventative detention order regime breaches the human rights to be free from arbitrary detention and to due process and cannot be said to be subject to an effective procedure of judicial review that provides adequate safeguards against violations of the human rights of the persons affected;

b) The control order regime breaches the rights to be free from arbitrary detention, to a fair trial, to freedom of movement, to privacy and family life, and to the presumption of innocence. http://www.chiefminister.act.gov.au/docs/Stanhope_advice_20051018. pdf. Meanwhile federal Liberal backbencher Petro Georgiou MP has said that the laws target Muslims and has called for an independent monitor to report to parliament on their operation

- *Draft Anti-Terror Legislation reviewed*

  James Jupp reviews the Draft Anti-Terrorism Bill 2005. He notes that the draft legislation breaches a number of long-standing legal protections and raises concerns about how it may be implemented. http://democratic.audit.anu.edu.au/Papers-2005/Jupp%20Anti-Terror.pdf

- *COAG and the limits of parliamentary scrutiny*

  Linda Botterill examines the role of Council of Australian Governments (COAG) in the wake of the controversy over ACT Chief Minister Jon Stanhope's publication of the Draft Anti-Terrorism Bill. She shows how the issue is a symptom of the way in which decision-making is becoming increasingly centralised through COAG and Premiers and Chief Ministers are committing their governments to action without first exposing policy to parliamentary scrutiny and debate. http://democratic.audit.anu.edu.au/Papers-2005/BotterillCOAG.pdf

- *New Zealand High Court ruling on leaders' debates: a victory for small parties*

  On 11 August 2005 the New Zealand High Court handed down a mandatory interim injunction requiring TV3 (a private television company) to include the leaders of all parliamentary parties in its televised leaders' debate. Unlike the government broadcaster, TV3 had chosen to include the leaders of only six rather than of the eight parliamentary parties. TV3 (owned by Canwest) argued that it was a private company exercising private editorial discretion and should not be subject to judicial review. The plaintiffs were the leaders of the United Future and Progressive Parties and they argued that TV3 was in breach of its public responsibility 'to refrain from discriminating between political parties on unreasonable, arbitrary, irrational or disproportionate grounds'. The High Court accepted that the private broadcaster was performing a public function and exercising a public power in its election coverage and was thus subject to judicial review. The injunction was granted on the basis that (1) the broadcaster's decision had been based on arbitrary grounds (the results of one opinion poll) and (2) that the Leaders' Debates had been shown to have a

significant impact on electoral outcomes in New Zealand. While the decision has been questioned by media interests as impinging on freedom of the press, it has been hailed by others as contributing to a level playing field for party competition, given the particular importance for minor parties of the exposure provided by the leaders' debates.

- *Human rights and the use of national security information in civil proceedings*

  The Hon John von Doussa, President of the Human Rights and Equal Opportunity Commission, considers the human rights implications of the recent amendments to the *National Security Information Act 2004*. He finds that the Act potentially compromises Australia's obligations under the International Covenant on Civil and Political Rights. *October 2005*

- *Up, Up & Away in my Beautiful Balloon?: some questions of media policy*

  Frank Morgan responds to a recent speech by Senator Helen Coonan, Federal Minister for Communications, on proposals to change Australia's media ownership laws. He discusses how new technology has changed the way we receive and digest news and information. *September 2005*

- *Do Australians have equal protection against hate speech?*

  Simon Rice examines the very different levels of protection against hate speech that exist in different Australian jurisdictions. He highlights Australia's unfulfilled international obligation to legislate against religious vilification and the interesting stance adopted by the NSW government on the subject. *September 2005*

- *Whistleblowing and the media — transparency the biggest casualty*

  Expanding on the issue of protection of sources Helen Ester looks at a range of factors affecting the Press Gallery's role in public accountability. These include not only government pursuit of whistle-blowers but also a weak FOI regime making journalists overly dependent on leaks and a hollowing out of the press gallery, meaning many gallery journalists are relatively inexperienced.

  The full Senate disallowance debate on new regulations on disclosure of information by public servants (speakers from the government, Labor and the Democrats) can be viewed at the Hansard web site pp. 38–50). The old regulations were found by Justice Finn in the Federal Court to be so sweeping as to contravene the implied constitutional freedom of political communication. *September 2005*

- *Policy, civilians and democratic accountability*

  Colleen Lewis investigates the effectiveness of attempts around Australia to increase the public accountability of the police. Dr Lewis highlights the

complex relationship between police and government and the reduction of judicial oversight under anti-terrorism laws. *August 2005*

- *How effective has the United Nations Human Rights system been in promoting human rights observance by Australian governments?*

  Elizabeth Evatt provides a synoptic overview of the varying degrees to which Australian governments have signed up to and implemented international human rights treaties. Justice Evatt identifies a range of issues arising from failure to respect the views and findings of independent treaty bodies, turning the Executive and the Parliament into the sole arbiters of compliance with human rights standards. *August 2005*

- *Theories for understanding government advertisings in Australia*

  In this paper, Sally Young assesses propaganda theory in relation to the current debate on the use and possible misuse of government advertising by incumbent Coalition and Labor parties. In particular, Dr Young comments on the relationship between governments, as major advertisers, and the editorial content of media outlets. *August 2005*

  The Senate Finance and Public Administration Committee is currently inquiring into Government Advertising and Accountability. The Committee is due to report in November.

- *Freedom of Information*

  Last month, the Audit referred to the recent AAT decision to uphold the 'conclusive certificate' issued by the Federal Treasurer to block access to Tax Office reports on the effects of bracket creep. This month, Dennis O'Brien, a partner at Minter Ellison, has written a paper — *Freedom of Information Law in Need of Overhaul.* An abbreviated version of the paper also appears in this month's *Public Sector Informant*. Mr O'Brien argues that Australia's FoI laws need to be reviewed and updated, including the removal of the conclusive certificate provision for internal working documents, adoption of FOI best practice, and a review of the fees and charges that can be used to impede access to information.

- *What price integrity? Funding Australia's integrity systems*

  A.J. Brown and Brian Head compare the level of resources different Australian governments give to anti-corruption watchdog agencies. On the combined measures of staffing and budget (as percentages of total public sector), Queensland agencies are best resourced, followed by NSW and Western Australia. Victoria, a perennial straggler since 1990, has now overtaken the Commonwealth.

- *John T D Wood, an international ombudsman consultant, and former Deputy Commonwealth Ombudsman, looks at the role of the Commonwealth Ombudsman's Office, one of the largest in the world in terms of the volume of complaints heard. While it has greatly enhanced the accountability of government to individual citizens, he notes however, that its effectiveness has been curbed through resource cutbacks and conflicts of interesting in funding arrangements.*

- *Peter Andren, the Independent Member of Parliament for Calare, offers a critique of the advantages of incumbency at election time, taking particular aim at the use and abuse of parliamentary 'entitlements'.*

* There are papers and debates on aspects of Australian democracy such as Auditors-General, the Constitution, Bills of Rights, Elections, Federalism, the Governor General, Immigration, Parliaments, the Media, and Citizenship.

Articles in Full

Here is a selection of recent papers of specific relevance to students of parliament that have appeared on the Democratic Audit website.

The Senate Changeover—Implications for Democracy

Marian Sawer[*]

One of the core values of democracy is popular control of government. Between elections such control is exercised by parliament on our behalf. But in the Australian Parliament it has only been one house, the Senate, which has developed effective procedures for such executive scrutiny and legislative review. The exceptional strength of party discipline in Australian parliaments, where almost every vote is the equivalent of a 'three-line whip', means that governments are safe from being held accountable while they hold a majority. Over the last 24 years, however, neither government nor opposition has controlled the Senate. The balance of power has rested with minor parties and Independents who have a vested interest in increasing the power of the legislature vis-à-vis the executive, as they will never be part of government themselves. Portfolio expertise has built up in the system of

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standing committees, which have the power to summon witnesses and require the production of documents. Independence increased from 1994, when each standing committee was divided for the different purposes of legislation and references — as references committees they have non-government majorities and chairs. As legislation committees they conduct estimates hearings, which have become the most effective means of scrutinising government performance and throwing light on the dark recesses of the bureaucracy.

In recent years the Senate has, on its own motion, set up major inquiries into matters of public interest, whether through select or standing committees. Sometimes sections of the community never previously involved in the legislative process have participated in such inquiries. A recent example is the inquiry by the Senate.

Community Affairs References Committee into treatment of children placed in care. This inquiry gathered harrowing evidence from those who had experienced 'care' as children and produced two consensus reports. But all has not been well in the Senate committee system. While it has sometimes operated as a relatively non-partisan form of enquiry, this has rarely been the case with sensitive inquiries such as those into the GST. Rather than encouraging broader community participation in the legislative process, community witnesses have left public hearings feeling bruised and battered by extremely adversarial cross examination by government Senators. There are also the very delayed responses to committee inquiries — or no responses at all. Governments are formally required to respond within three months and presiding officers to report to parliament twice a year on this. But there have been no responses at all to 46 Senate inquiries, even where there have been consensus reports such as Forgotten Australians. Over the last two decades the Senate has developed into what upper houses are supposed to be — a house of review. Much of this has been due to the role of minor parties and Independents. It was a Democrat Senator, for example, who introduced the deadline for introduction of Bills, to avoid the end-of-sitting rush of legislation. A Greens Senator introduced the double deadline in 1993 to prevent Bills being rushed through the House of Representatives to meet the Senate deadline. Both these initiatives enhanced the capacity for effective legislative review and negotiation of amendments to improve the quality of legislation.

Delegations from Canada and the UK have reported enthusiastically on the Australian Senate as a model of how upper houses can contribute to the legislative and executive scrutiny functions of parliament. An observer from the US Congressional Library wrote a book on how the ritual warfare and peremptory consideration of legislation in the House of Representatives turned into serious negotiation over legislative improvements in the Senate.

But will a government with a majority in the Senate from 1 July respect its independence and accountability mechanisms? What will happen about the composition and chairing of committees? There is no tradition in Australia of non-government chairs when the government has a majority — as with the Speakership

or the Chair of the Public Accounts Committee in the UK. Will resources available for committee staff and time available for estimates hearings be further reduced? And what about the budget of the parliamentary library, a crucial research resource for non-government members and Senators? Some commentators place their faith in government backbenchers flexing their muscles and defending Senate independence. With a government majority of only one, each government backbencher will have enhanced bargaining power. There are examples from the past of government Senators defying their party leadership. In 1981 Senator Alan Missen led six of his colleagues, including Senator Robert Hill, across the floor to support the establishment of the Scrutiny of Bills Committee. Will there be similar revolts again? The government has foreshadowed it will push through electoral amendments previously rejected by the Senate. It wants to close the electoral roll on the issuing of writs, which will disenfranchise about 80 000 new voters judging from past performance. Many citizens put off enrolling until an election is announced. Other countries are trying to increase, not reduce the electoral participation of young people, with Canada allowing them to enrol when they turn up to vote.

It seems unlikely that government backbenchers will revolt on industrial relations reform, although it means dismantling a once proud Liberal creation. The fathers of conciliation and arbitration were Liberals like Alfred Deakin, Charles Kingston, Bernhard Wise and HB Higgins, all of whom believed wages and conditions were too important to be left to the higgling of the marketplace. The future of the Senate as a brake on government is highly uncertain. Both Labor and Coalition governments have frequently expressed their impatience with this form of accountability. But slower government is often better government, and certainly more democratic in its process and outcomes.

The Speaker Rules, or Does He?

Dr Ken Coghill[*]

Ideally parliaments, as well as legislating and holding governments to account, provide the prime forum for democratic deliberation and reasoned debate on public issues of the day. The principles of deliberative democracy require respect for different points of view, rather than simply slanging matches. The Speaker, as presiding officer, has the responsibility and potential to advance these goals. Speakers of the Australian Parliament, however, are frequently accused of bias in favour of the government of the day, leading to calls for an independent Speaker and promises by Opposition Leaders to reform and respect the office if elected to government. Frequently, if elected to government, the same politicians are found guilty of having one standard in opposition and another in office. A Speaker can find him or herself in an invidious position, but can do much to avoid that. The

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position becomes invidious because in almost all circumstances governments have the support of the majority of Members. The government must maintain majority support to avoid defeat in the House and loss of office. It is virtually guaranteed support in any confrontation with the Speaker. The House is master of its own proceedings — it makes its own rules and they can only be upheld by the House. There is no appeal to the courts. The separation of powers convention means that the courts will not intervene in how the House conducts itself. Thus, Speakers ultimately rely on the support of the government for their authority in ruling.

The real test of a Speaker's support is on a motion to over-rule a decision — a motion to dissent from the ruling. If they fail to get support for a ruling, they have effectively lost the confidence of the House and have little chance of remaining in office. Remember Speaker Jim Cope whom Prime Minister Gough Whitlam failed to support? However, a Speaker need not be a powerless servant of the government. Both his own conduct and that of the government can enhance the Speaker's authority and effectiveness. Dissent motions are relatively rare, but two cases — one five years old, one recent— show the problems a Speaker can get into. Speaker MacLeay (Labor) ruled a question by Fred Chaney (Liberal Opposition) out of order on 6 March 1991. Questions are intended to ask for information on matters for which Ministers have legal authority and responsibility in their ministerial capacity. This question asked: Does the Prime Minister deny that the days and nights that his Government has spent agonising over how to solve the problem of resource security are a direct result of its strategy of playing the environment for every vote that it can produce? Even if the Government finally comes up with some sort of legislative backing for forestry projects, what reliance does the Prime Minister seriously expect anyone to place on it in light of the Government's appalling record of using the environment as a political football without regard to the national interest?

Kim Beazley, on behalf of the government, asked the Speaker to rule the question out of order as it did not conform with the rules for questions. After allowing very little debate on the merits of the point of order, MacLeay gave a very narrow reading of what was acceptable and ruled it out. This precipitated a dissent motion, moved by John Howard (then in Opposition but not Leader). He claimed that the Speaker was: ... blatantly unfair against the Opposition, that (he was) displaying enormous bias in favour of the Government and that what (he was) doing (represented his) contribution towards shoring up the staggering fortunes of a discredited and failing government. Things went from bad to worse when MacLeay took exception to what he saw as imputations against the Speaker and named Howard. This would have led to his expulsion for a day had the Speaker not relented. After an acrimonious debate, the motion was defeated. Speaker David Hawker was appointed after the resounding re-election of the Howard Government in 2004. He soon found himself in confrontation with the Opposition. On 7 December 2004, whilst I was observing from the Public Gallery, Hawker found himself in a particularly messy situation. Or, more accurately, Tony Abbott's action (as Leader of the House) drew the Speaker further and further into the mire. It

began with a question by Mark Latham to a Minister, De-Anne Kelly, concerning a letter she signed as Parliamentary Secretary in another portfolio, dated and sent after her ministerial appointment. Abbott asked that it be ruled out of order as it related to her duties as Parliamentary Secretary. After brief argument by Latham, the Speaker ruled it out of order, saying only: The question does place the chair in a slightly difficult position. But, thinking about it, I believe that the point of order from the Leader of the House will be upheld. After one further intervention, he added: ... a parliamentary secretary is not to be held responsible to answer questions. The point is that the minister is the Minister for Veterans' Affairs and can be questioned on matters relating to her role as the Minister for Veterans' Affairs. This immediately led to a motion of dissent. In the course of the debate it became clear that even Abbott thought that the question should be allowed. By this stage the Opposition was itching for a fight. Nonetheless, it was open to the Speaker to indicate to the House that having heard the further information and arguments, he was prepared to allow the question. This would have diffused the moment's tense atmosphere and done much to soften the Opposition's rising, strident criticism of his performance. However, he did not take the opportunity and indeed exacerbated the situation with rulings during the debate that were made without seeking the advice of the Clerk, appeared to be ad hoc and for which no explanation or justification was offered (as with his initial ruling). Ultimately, the motion was defeated, but it left the Speaker indebted to the government for rescuing him from a situation into which it had clumsily led him but which his own actions had exacerbated; it also served to harden Opposition concerns over his chairmanship. These two cases suggest that mere reform of procedural rules is insufficient to address allegations of bias by Speakers. Certainly, reforms are needed to limit questions that do not pursue accountability and require ministers to properly and fully answer questions. However, existing rules could be interpreted and applied more effectively and fairly (e.g. see Appendix). Two major complementary factors can bring respect to Speakers for fair treatment of all Members. Speakers can assert and test the limits of their independence from the government; and government culture can respect the importance of effective functioning of the parliament to good government. Both are dependent on personal qualities of the personnel involved — especially the Speaker and the Prime Minister (or Premier). For the Speaker, asserting independence requires fine, subtle and sensitive judgement in order to avoid overstepping the mark and losing the support of the majority — the government. For example, India has had an especially fine tradition of Speakers who have achieved high respect through their strong performances. Australian parliamentary history has seen a full range of government cultures, from governments that have treated the Speakership as both their gift and their servant, to governments that have respected the institution of parliament and the office of Speaker.

Sadly, today's House of Representatives has a reputation at the lower end of the scale. Government, Opposition and the Speaker should reflect on what each can do to establish a parliamentary culture in which the Speaker and his conduct are held in the highest regard.

Appendix

(Taken from Victorian Parliamentary Debates. LEGISLATIVE ASSEMBLY, VICTORIA, 11 August 1992)

GUIDELINES ON THE CONDUCT OF QUESTION TIME

The SPEAKER (Coghill) — It is important that question time is conducted in a manner which both ensures that it fulfils its intended purpose and is consistent with the status and proper dignity of parliament. The following are the guidelines based on Standing Orders, Speakers' rulings and May which apply to the conduct of question time:

- A member or a Minister must not read a question or an answer. Such questions and answers may be ruled out of order by the Chair;
  - questions and answers must relate to government administration or policy and should be directed to the Minister most directly responsible or answering on behalf of such Minister in another place;
  - questions to the Premier may relate to matters within the Premier's portfolio responsibilities and to general matters of government policy and administration, but questions concerning detail affecting another portfolio should be directed to the responsible Minister;
  - questions should not seek an expression of opinion, seek a legal opinion or ask whether statements reported in the media are accurate or correct;
  - questions should not seek a solution to a hypothetical proposition, be trivial, vague or meaningless;
  - questions should not contain epithets or rhetorical, controversial, ironical, unbecoming or offensive expressions, or expressions of opinion, argument, inferences or imputations;
  - questions should not raise matters which are sub judice or anticipate debate on an Order of the Day;
  - where a question relates to an allegation, assertion, claim, imputation or similar matter, the member is responsible for the accuracy of the facts.
- Where the facts are of sufficient moment the member may be required to provide prima facie proof to the Speaker before the question is admitted;
  - questions cannot reflect on the character or conduct of members of either House and certain other persons in official or public positions which are defined in May. Attention is also drawn to the provisions of the Australian House of Representatives Standing Orders which restrict questions critical of the character or conduct of other persons to questions on notice;
  - where a question seeks information which is too lengthy to be dealt with in an answer to a question or otherwise invites a Ministerial statement, the Chair

may disallow it and suggest that the Minister t o whom it is directed consider making a Ministerial statement on the matter following question time.

- It should be noted that such action is not constrained by the practice of issuing copies of Ministerial statements, which is a courtesy only, or by the relatively recent practice of Ministerial statements being followed by debate on the question that the Ministerial statement be noted;
  - questions which breach the guidelines are out of order and there is no right to immediately rephrase or re-ask questions which have been disallowed;
  - answers must comply with the same rules and practices as apply to the asking of questions;
  - answers must be directly responsive, relevant, succinct, limited to the subject matter of the question, may provide statements of policy or the intentions of the government, including information on examinations of policy options and other actions which the Minister has had undertaken but must not debate the matter. (Answers to questions should be limited to 2 minutes usually and an absolute maximum of 5 minutes actual speaking time);
  - an answer may be refused on the grounds of public policy, for example, that answering may jeopardise criminal investigations or for some other particular reason may be against the public interest that the information is not available to the Minister, in which case it may be requested that it be placed on notice that the Minister intends to make a Ministerial statement on the subject matter in the near future.
- The conduct and effectiveness of question time is in the hands of members. It will assist if:
  - personal conversation is limited as it is discourteous and adds to the background sound which creates difficulty in clearly hearing questions and answers;
  - a member or a Minister speaking pauses whenever audible conversation, interjection or other disorderly behaviour occurs;
  - a member or a Minister who is unable to control his/her disorderly conduct leaves the Chamber for the remainder of question time rather than risk being named. The Chair may exercise its absolute discretion concerning the call by not giving the call to a member or a Minister whose conduct has been disorderly, including interjections.
- A member or Minister who has been consistently warned as a result of disorderly conduct in question time may be named without further warning as a result of further disorderly conduct during any part of proceedings on that day or a future day during the current sittings period.

Managing Intergovernmental Relations: Coag and the Ministerial Councils

Linda Botterill[*]

In October 2005, the Chief Minister of the ACT, Jon Stanhope, was criticised by the Prime Minister for placing on his website draft anti-terrorism legislation which the Commonwealth had made available to the States and Territories for their comment. This followed in-principle agreement by members of the Council of Australian Governments (COAG) to the provisions of the proposed legislation. Stanhope argued that he would not sign off on the legislation without consulting the people of the ACT, whom he represents. His concern exposes one of the problems with the management of intergovernmental relations in Australia, namely the accountability of intergovernmental policy-making institutions. In addition, there has been an increasing trend towards centralisation of policy making, both within State governments towards central agencies and within the federal relationship towards the Commonwealth. Finally there are varying levels of transparency associated with intergovernmental policy bodies.

The formation of COAG in 1992 signalled a new era in Commonwealth-State cooperation. It provided a high level forum for intergovernmental cooperation on issues of national strategic importance and cross-jurisdictional concern. Policies developed through COAG include the implementation of the national competition policy, an intergovernmental agreement on the environment and the National Water Initiative.

Underpinning COAG are ministerial councils and similar bodies which address more specific, sectorally-based policy issues. Since the establishment of the first sectoral ministerial council, the Australian Agriculture Council, in 1934 this type of consultative arrangement has proliferated. In 2005 the Department of Prime Minister and Cabinet identified over 40 such fora. The councils generally comprise the ministers from each jurisdiction with portfolio responsibility for the policy area covered by the council. For example, the Primary Industries Ministerial Council has responsibility for intergovernmental consultation in the area of the primary industries and the Commonwealth-State Ministers' Conference on the Status of Women seeks to coordinate and develop policies which affect the status of women, particularly on issues which cross borders between jurisdictions.

Although COAG and the ministerial councils facilitate intergovernmental cooperation and policy coordination, as the Stanhope example shows they raise some questions about the transparency of decision-making. COAG can limit parliamentary scrutiny of key national policy positions as Premiers and Chief Ministers commit their governments to action without first exposing policy

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positions to examination by their respective legislatures, and by extension to the broader community.

The increase in executive power over the policy agenda has been facilitated since the 1990s when State governments strengthened the role of the so-called central agencies, such as Departments of Premier and Cabinet. Portfolio ministers attending intergovernmental meetings are increasingly required to have executive clearance of their policy positions before attending such meetings. The involvement of heads of government in policy areas formerly handled by portfolio ministers has been reflected in COAG's interest in issues which were previously the responsibility of ministerial councils. A good example is the National Water Initiative which, while being implemented by the Natural Resource Management Ministerial Council, is a policy initiative of COAG.

The centralising trend that results is exacerbated by the nature of COAG. As the Prime Minister decides if and when COAG is to meet and what will be discussed, the Council's priorities are more likely to align with the Commonwealth's policy agenda than the concerns of the States.

The ministerial councils and COAG vary in the level of the transparency of their deliberations. Some councils offer detailed records of their meetings and others simply issue press releases or communiqués with brief reports of policy decisions. COAG's reporting is limited to the provision of a communiqué summarising the decisions taken.

There is considerable overlap between the policy interests of the two levels of government and a clear need for some form of consultation and cooperation, particularly in areas which cross State/Territory borders. However, the operation of COAG and the ministerial councils is 'notoriously opaque and hard to access for the public, with conventions of secrecy and bureaucratic habits of confidentiality dominant most of the time'.[1] As COAG takes control of more policy issues, there is a risk of the policy process becoming more centralised and less transparent with reduced opportunity for parliamentary scrutiny of important national policy decisions. ▲

[1] Martin Painter, 1998, Collaborative Federalism: Economic Reform in Australia in the 1990s, Melbourne, Cambridge University Press, p. 71.

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