

Opposition One Day, Government the Next: Can Oppositions make policy and be ready for Office?

Scott Prasser*

Introduction

The nineteenth-century English commentator Walter Bagehot suggested that Westminster democracies invented the concept of having an ongoing formal opposition ‘which made criticism as much as part of the polity as administration itself’ (Bagehot 1976: 216). The existence of a recognised ‘opposition’ has a long history in English constitutional development. A deliberately organised ‘opposition party’ though small in number was recognised and tolerated during the reign of James I (Butt 1969: 44–46). The development of an institutionalised opposition continued throughout the eighteenth century, but it was not until 1826 that the expression ‘Leader of the Opposition’ was first used in the United Kingdom and the development of modern political parties in the nineteenth century that idea of ‘Her Majesty’s Opposition’ became both accepted and operationalised in any formal sense (Foord 1964). The concept of an ‘opposition’ partly developed from parliament’s need to hold the executive in check. Later, ‘the opposition’ became a more specific part of parliament — namely the party or members without a majority to form government.

The notion of a government facing a formal opposition reflected the adversarial and competitive nature of the Westminster system. It meant that politics was a contest between one party in power against the other, the opposition, seeking to gain office by attacking and criticising the government in what has been described as a ‘continuous election campaign.’

In Australia, oppositions were recognised early. In Queensland the ‘Leader of the Opposition’ was recognised by statute in 1896 in the *Constitution Act Amendment Act 1896* (EARC 1991: 11). Nationally the Leader of the Opposition carried

* Professor Scott Prasser, Australian Catholic University, Canberra

additional salaries from 1920 — some 17 years ahead of similar entitlements to the United Kingdom counterpart (Bateman 2009: 7). The Commonwealth Constitution does not mention ‘the opposition’ reflecting the view that responsible government should reflect political practice rather than law. Nevertheless, oppositions are recognised in Australian Commonwealth and State parliamentary procedures in all sorts of ways — questions time, debates on legislations, right-of-reply on the budget — all provide a place for oppositions to participate in these key parliamentary processes.

So, oppositions are an accepted and integral part of Westminster systems and have long operated in Australia. Moreover it has been argued that having an institutionalised opposition is one of three most important features of a democracy — the other two being the right to participate in government and the right to be represented (Dahl 1965: xiii).

This article explores two issues. First, in considering an opposition’s various roles where does the development of policy fit and is it important? Second, if developing policy is an important function for oppositions then what are the expectations about the extent, nature and detail of that policy? Indeed, given the breadth of government intervention in society and the increasing complexity of policy issues can oppositions really be expected to make policy and be ready for office as the Westminster system expects? Also, given the agreement that executive government’s hold over parliament has increased, do oppositions have the capacity to develop policies and to compete directly with executive governments.

Roles of Opposition — Where Does ‘Policy’ Fit?

Oppositions in Westminster democracies, as suggested, have a variety of roles. They are first and foremost expected to criticise the government, to hold it to account, to scrutinise its proposals and assess its actions and ensure, as Bagehot (1976: 216) observed that ‘the nation is forced to hear two sides, all the sides perhaps, that which most concerns it.’ This is part of parliament’s long held role of keeping a check on executive government — a check that with the coming of disciplined political parties must necessarily be performed by opposition members as distinct from ‘government’ members. Opposing and criticising the government is the order of the day through whatever legal and constitutional means available. The role of oppositions is to oppose. This is what oppositions are expected to do. And there are all sorts of means within parliament that oppositions can use to perform this basic function ranging from questions to ministers, debates on legislation and budgets, participation in committees and where numbers and constitutional practice allows, the use of upper houses to block or delay government proposals or even to force governments out of office (Aroney *et al* 2008). Activities to harass governments outside of parliament include seeking to change public opinion against proposed government actions through media commentary, highlighting government ‘scandals’ and ongoing debate with government members in a variety of public forums.

Oppositions complain, usually accurately, that they are often unable to fulfil these roles of critics as effectively as they might because government parties dominate parliamentary processes and seek to camouflage their mistakes, to protect their ministers, to deflect criticism on key government projects. This control by executive dominance is well documented.

Nevertheless, despite these limitations criticising government is relatively easy for oppositions at one level. Governments and the large bureaucracies, budgets and complex programs they now administer inevitably result in some mistakes at some time. There are always through insider 'leaks', media investigations, information garnered through normal parliamentary processes of question time and committees, reports from auditors-general and other review bodies and interest groups reactions to government policy initiatives, enough 'mistakes' for even the most inept oppositions and lazy shadow ministers to use. Criticising government is also cheap in terms of resources involving minimal effort on the part of the opposition. Rarely has an opposition's forensic efforts been responsible for exposing government vulnerabilities. More usually, oppositions rely on other sources and often get their cue from the media, reports from external review or integrity agencies and sometimes even the government itself about what to attack.

The problem is just criticising government and exposing examples of maladministration is not the only or even prime role for oppositions. Criticism is just part of the wider function of seeking to highlight a government's deficiencies so that voter support will change. As S.E. Finer (1970: 175) observed the functions of the opposition are to:

Participate in parliamentary deliberation; to oppose objectionable policies; to make the government modify them; to create public revulsion against the government; and, above all to pose an alternative. Of all its functions the last is most important. (author's emphasis)

An opposition in Westminster systems is the 'government in waiting' and because of this they have to be more than just government critics. While there are other critics of government — numerous statutory review agencies, interest groups, academics, think tanks, the media and citizens both as individuals and through public opinion — none seek office. Only Her Majesty's Opposition is the 'government in waiting.' It is this role of being the 'government in waiting' or the 'alternative government' that not only distinguishes oppositions in Westminster systems from other critics, but also, imposes certain requirements on oppositions in relation to 'policy' not experienced in many other political systems.

Most importantly, criticism by oppositions must be matched by policies to fix the problems being highlighted. While criticising the government is part the 'continuous campaigning' and the 'war against the government' (Punnett 1973: 214) by itself it is not enough for an opposition to win office. Oppositions that just criticise without an alternative policy framework are easily portrayed as being negative, complaining and lacking capacity to tackle to current public policy

problems. Policies distinguish oppositions from governments in the ongoing electoral battle. Policies are the prime incentive for voters to change allegiances. Policy differences reflect the competition of ideas that are necessary for healthy political debate in a democracy and which improve policy outcomes (King 1993).

So, policy counts in what oppositions have to do. And what makes policies count even more in Westminster systems is that oppositions must be ready to take over the reins of office immediately after an election or some other political event. There is no transition to office period for oppositions in Westminster systems unlike in the United States where newly elected president have three months before they take over the reins of power. Rather, in Westminster systems it is opposition one day, government the next. The very speed of this transition and its occasional unexpectedness, imposes real demands on oppositions concerning their policy 'readiness.'

Challenges for Oppositions in Developing 'Policy'

So, policy is important, but oppositions are often accused of doing this least effectively. Governments accuse oppositions of being a 'policy free zone.' Opposition policies are criticised by the media, government and interest groups as being impractical or too limited. Policies are important, but doing policy is hard for oppositions for a variety of reasons.

Nature of Policy

One reason why doing policy is hard, is because it involves two elements. Policy refers to intended actions by governments to ameliorate or reduce a particular perceived problem on the policy agenda. 'Policy' needs to have good content, be rational, based on sound evidence, show how it will solve or reduce a problem within specified timeframes, be cost effective, be ethical and be administratively viable. At the same time policy has political dimensions such as whether it is: popular; consistent with previous party/leader stances in or out of government; reflective of a party's ideology and in the competitive adversarial Westminster system whether it differentiates the party from the other side. Oppositions, like governments are constantly seeking to balance these two elements of developing and choosing policy, but with oppositions the pressures can be more offsetting. In not having to face the realities of office, oppositions may be tempted to support policies that they know they will not have to implement and thus be more 'populist' or extreme. Oppositions will be tempted to appeal to certain minority groups, while governments have to be more balanced.

Lack of Resources

Another challenge for oppositions in doing 'policy' is that they lack the resources of the incumbent government in terms of staff, research, information and expertise. Numerous studies have highlighted the imbalance between the resources

of incumbent government, backed as they are by a large public bureaucracy and increasingly by their own partisan appointees to ministerial offices whose numbers have greatly increased in recent years (Bateman 2009; Coaldrake 1989; EARC 1991; Maley 2000) and large numbers of consultants. Oppositions can never match this.

Government Controls

Not only that, but as suggested earlier, executive governments through their dominance of parliament and its devices such as question time, debates and operations of the committee system, prevent the oppositions from gaining information. This also has been a complaint by all oppositions of all political persuasions. The Fitzgerald Inquiry (1989; 123-4) in Queensland observed that:

Any government may use its dominance in the Parliament and its control of public resources to stifle and neuter effective criticism by the Opposition ... Unless the Opposition can discover what has happened or what is happening and give consideration to events with expert assistance, it cannot expose and criticise the activities and the people involved. It is effectively prevented from doing its job.

Despite some improvement in resourcing oppositions during the last two decades the disparity between their resources and those of governments remain wide. Also, other mechanisms introduced to make governments more transparent have, like freedom of information laws and other external mechanisms not always been as successful as promised (Solomon 2008).

The Benefits of Incumbency

Reinforcing government advantage is the long incumbency by Australia governments which allows them to consolidate further their hold over existing advisory institutions such as the public service. Labor has been in power in Victoria since 1999, Tasmania since 1998, South Australia since 2002 and New South Wales since 1995. In Queensland, except for a brief two year interregnum, Labor has been in power since 1989. At the federal level some recent governments have surpassed four terms (Hawke–Keating; Howard).

There are many implications of these long terms of incumbency on oppositions and their ability to develop effective policies. For instance, the longer a party is in opposition the less ability it has to attract new recruits to its parliamentary ranks let alone high calibre staff. Further, such oppositions lack experience when they come back into government. When the Howard Government was elected in 1996 there were only two members with former ministerial experience as the Coalition parties had been in opposition for 13 years. As well, parties returning to office after long gestation periods, tend to rely on their predecessor's policies until they get a better understanding of government (Rose and Davies 1994). Incumbency also gives

governments considerable resources to market their policies through taxpayer funded advertising campaigns. Oppositions have to pay their own way.

Policy Complexity and Detail

So given this imbalance in resources, personnel and research capacity just what can oppositions be expected to produce in terms of detailed policies? Is the complaint by Senator Penny Wong (2009), Federal Environment Minister made during 2009 in the debate over the emissions trading scheme that the Opposition had not delivered a detailed alternative policy fair? As Senator Wong (2009) harangued the opposition:

I have said time and time again — and I will say it again in this place — the government will consider any serious credible amendment to these bills that is put forward in the national interest and that is put forward with the support of the opposition party room. I have made that offer time and time again, but there is not a single amendment on this enormous challenge. On this very substantial economic environmental reform, you have not had the wherewithal and the strength to put one single amendment before this chamber. *There has been no policy from those who claim to be the alternative government. There is no recognition of the serious need to act now to preserve Australia's national interest in the face of climate change.* (author's emphasis)

Can an opposition without the extensive resources of government departments be expected to produce such detailed policies? The same argument applies to expectations around whether the opposition leader can make a reply to the government's budget that took months to prepare by experts in Treasury within one day and a few resources.

A related issue is not just whether oppositions can develop such detailed policies, but whether they should. Some suggest that oppositions should seek to focus on broad principles of policy and overall directions rather than the detail of policies about which they are patently unfit to develop. Prime Minister Harold Macmillan (quoted in Rose 1976) quipped about his opposite number, Hugh Gaitskell, who developed detailed policies covering every policy area:

The trouble with Mr Gaitskell is that he is going through all the motions of being a government when he isn't a government. It is bad enough having to behave like a government when one is in power. The whole point of being in opposition is that one can have fun and lend colour to what one says and does.

Macmillan's point is that being in opposition should be a time for political parties to range more freely over policy debates, to engage in more discussions and to propose a wider range of options than if in government. Being in government requires a focus on what is 'doable,' on costs and on working with a wider range of constraints than oppositions.

However, avoiding detailed policy statements is difficult for oppositions. This is partly because political parties in Westminster democracies have been much more programmatic than their counterparts elsewhere, especially the United States. As Finer (1970: 159) explains, 'parties ... spend a good deal of time in preparing a program of action which they expect to carry out if returned with a majority.' This 'program of action' also becomes tied up with an incoming government's 'mandate' of election promises and thus justification for certain policy actions once in power (Beer 1973; Emy 1978: 227–30).

The second is that detailed policy manifestos and promises were also seen as a means to keep a party on track, in ideological terms, once it gained office. This was particularly the case with so called 'reformist' or 'visionary' parties like Labor whose members were concerned that the party once in office would be resisted by other institutions such as the permanent public bureaucracy or seduced from the party line by the day-to-day crises and pressures from key interests (Rose 1976).

Certainly, in Australia the trend has been for both sides of politics to develop ever more detailed policy statements before and during an election campaign. Oppositions that try to produce less detailed policies are openly ridiculed by the government and the media that itself and also become more insatiable for policy detail, costings and explanations. The epitome of this detail was once seen in the program of promises outlined by the Whitlam Labor party in the 1972 federal elections. While it became the cause of Labor's electoral success that year, in office over-adherence to the election promises regardless of changing economic circumstances and the impracticality of many of the ideas, became one of the causes of the Whitlam Government's perceived failure (Kelly 1992). On the non-Labor side the very detailed *Fightback!* policy package developed by Dr Hewson in the run-up to the 1993 election became an easy target for the Keating Government in terms of its inaccuracies, gaps and complexity and potential for scaremongering among the electorate.

Realities of Developing Policy — Can Oppositions Connect?

The other aspect of developing policy rarely touched upon is the very realities of how policies emerge within government and societies. The view that politicians make policy and public servants just administer these is simplistic. The policy vs administration dichotomy has long been disproved. Policy emerges by ongoing interaction between politician and official through day-to-day grappling with problems. Although governments might start with some specific policy they inevitably have to develop policies incrementally, constantly changing and modifying direction in response to feedback from their public service, interest group responses and clients (Colebatch 1998). Oppositions are not in the policy network and cannot appreciate the information and feedback being generated by the ongoing development and implementation of a policy. They can talk to some of the players, like interest groups and even the public servants within certain limitations

such as through parliamentary committee hearings, approved briefings and transition to government arrangements. However, certain information will be always be necessarily withheld, the interactions will be sporadic and the real nuances of the policy as it working and needing to be changed not fully understood. Hence, oppositions often express surprise about what they did not know about a policy area when they first gain office and often take time to initiate changes as they learn about these new developments.

Policies as Political Weapons

Another possible obstacle that makes developing coherent policies difficult for oppositions is the adversarial nature of Westminster politics. This means that policies are as much a means to criticise the government and gain electoral support as they are about developing solutions to problems. It is a competitive exercise. Taking particular policy stances will reflect political opportunism often in contradiction to views/policies previously held by the opposition in government (and by governments in opposition). Federal Labor opposed the GST when in opposition, although in office, they supported this proposal.

Policy will also be driven by attempts to gain first-mover advantage, to capitalise on changing circumstances and to ride certain popular views or trends about issues to gain votes. Similarly, the current federal Coalition opposition in government supported an emissions trading scheme, now for reasons of political competition, has rejected this approach. As Lees and Kimber (1972: 178) observed in the United Kingdom, despite all the effort that parties seem to put into policy development and programs they ‘often seem little more than vote-catching devices.’ And if this is what they really are, can they be effective guides to political parties once in office or reliable guides to the electorate upon which to make their voting decisions?

Avoiding Policy Me-Tooism

Given the importance of policy as a political weapon, as a means to distinguish one side from the other, the other challenge for oppositions is to avoid policy ‘me-tooism,’ — of following too close the government’s policy line. This problem is particularly pronounced when an opposition is new after being in government for a long time. Many of the new government’s policy ‘initiatives’ will in fact be policies already in the pipeline and which have just been relabelled to suit the new government’s thrust. It is hard for an opposition to criticise these. At best it might claim some ownership. Also, as a new government has an obvious clear electoral mandate an opposition finds it is initially hard to criticise its policies for fear of being perceived as a sore loser and denying electoral mandates — concerns that government will exploit. However, as Menzies observed, oppositions must resist the temptation to follow the government line as this surrenders all initiative to government. Oppositions, warned Menzies, must strive to be, ‘as different as possible’ from the government of the day (Menzies 1972). It was policy me-tooism

that undid Billy Snedden as leader of the Coalition Opposition in 1975. It was what caused Malcolm Turnbull's downfall in December 2009. Turnbull's approach to policy on ETS was too accommodating to the government, too bipartisan.

Oppositions need to be careful of calls for bipartisanship from governments. While superficially seeking to develop consensus on important policy issues, politically it amounts to giving up the policy ground to the government. There are some areas and issues where bipartisanship can occur, but oppositions have to tread wearily. Too much bipartisanship makes the opposition irrelevant. Abbott's rejection of Prime Minister Rudd's call for a bipartisan agreement on a target for homelessness reflected this concern.

At the same time, oppositions must be careful not to be seen as too negative. It may gain partisan support, but the general voter is less convinced preferring to see evidence of co-operation or at least recognition that not all the government's policies are wrong.

Managing Ideological Tensions

The other related tension facing oppositions concerns dilemmas about the ideological 'purity' of their policies. In government, parties move away from their ideological base as they confront the realities of office. However, in opposition, party leadership, cut off from the support of the public bureaucracy and other sources of advice, necessarily turn to their partisan supporters for advice and funding. The temptation is for opposition parties is to return to their roots, to sip again at their ideological well as a means of redefining their political and policy stands, to restore depleted partisan support from and to distinguish itself from government. Labor parties in opposition are tempted to turn to trade unions and concerns about welfare issues. Non-Labor parties turn to business and right wing think tanks. Ideological purity in policy is what partisans preach. The danger is that subsequent policies may please the party faithful, but are too 'ideological' and impractical and thus alienate the more moderate and larger parts of the electorate.

Finding Policies and Directions

Adding to all these woes is that oppositions entering their new found role initially find the policy cupboard bare. The new government is in the process of taking over many of the policies of the former government. Meanwhile some of the policies that the former government was strongly advocating, especially during its last term and recent election campaign, are now seen as electoral losers and are quickly disowned and dumped. The present federal Opposition did this with *Workchoices*. This might provide a clean policy slate, but it also leaves the opposition in a policy vacuum and directionless for some time. Also, a new opposition has to wait for the incoming government's new policies to be implemented before they can be legitimately criticised. In the meantime oppositions at best can criticise other aspects of policy

— such as its processes of development (eg lack of consultation, poor cost-benefit analysis prior to their introduction and possibly poor implementation). Such criticisms can come across as ‘nit-picking’ and missing the ‘big picture.’ Interestingly, the present federal Coalition opposition is only began to make headway against the Rudd Government two years after it has been in office as some of its policies are being implemented and their impacts more able to be assessed (eg insulation batts policy).

Conclusions

There are increasing expectations of oppositions in relation to the development of policy. They need to be more than critics of governments. To win office they need to do more than just rely on government mistakes. To be truly seen as ‘governments in waiting’ they need to have real policy options ready to implement. A more sophisticated electorate, the growing expertise of interest groups that are challenging governments as well as political parties in policy analysis, the complexity of modern policies and the demands for improved rationality and ‘evidence’ in policies, requires oppositions to improve their policy efforts. Institutionally, given the ‘winner takes all’ approach of Westminster systems and the increasing dominance of executive government, then oppositions find it increasingly hard to be in the competitive policy game. However, the future of any opposition lies in developing alternative policies that have both good content and the right political appeal. Current federal Coalition Opposition leader, Tony Abbott acknowledged this: ‘knowing what you are against is important for oppositions, but it’s not a recipe for effective government’ (Abbott 2010). ▲

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