

Performance Indicators for the Parliament — Sharp or blunt instruments of reform?

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When he was in Canberra in 2001 Robert Hazell, Professor of Government and the Constitution at University College, London, delivered an address at Parliament House. His topic was ‘The challenges facing our Parliaments: How can we improve their performance?’ He posed the question: ‘Can we develop performance measures and benchmarks to measure effectiveness of Parliaments?’ and suggested a joint study by the Australasian, British and Canadian Study of Parliament Groups.¹

Before we participate in any joint study a significant amount of preparatory work is necessary. And before we start this work, we need to answer a threshold question: is development of performance indicators for Parliament a second order issue? The primary or basic issue is the existence of adequate checks and balances in the functioning of parliamentary democracy in Australia. If we are satisfied about their adequacy, we can then proceed to the task of our choice.

Development of performance indicators is not a simple exercise. It is not just a matter of a few interested people getting together, agreeing on the functions of Parliament and then dreaming up some indicators. If we are to develop such indicators it is essential that we know precisely what we are doing and what we intend to achieve. Performance indicators are an integral part of program evaluation and the ‘primary purpose of program evaluation is program improvement.’² I believe it will be necessary to adapt the methods of program evaluation to the task. Therefore, there would be advantage in enlisting the services

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¹ Taken from the notes Professor Hazell gave those who attended the seminar. For a revised text of Professor Hazell’s address, see previous article.

² Government response of 16 May 1991 [page 12] to the *Not Dollars Alone* report from the House of Representatives Standing Committee on Finance and Public Administration.

of someone with knowledge of and experience in developing performance information for policy analysis.

If performance indicators are not tied to improvement they become a 'publish and forget' exercise, part of the window dressing of public sector reform. What is the purpose then of developing performance indicators for Parliament? I believe their major if not sole purpose is to improve the functioning of Parliament in the longer term. I also suspect that there could be a lot of scepticism about the value of indicators among members and party leaders. It could be quite a while after continuous publication and pressing the matter with those that influence decision-making before we see some light at the end of the tunnel. Further, the work on preparing indicators could be resource intensive. Therefore, for both reasons, researchers should explore other avenues for improving the functioning of Parliament.

This article, however, develops a methodology for constructing performance indicators using examples from the Commonwealth Parliament. Later, the article proposes a way of testing the methodology and also offers a less resource intensive way of improving the functioning of Parliament.

The methodology

Because the focus is on improving the functioning of the institution, performance indicators will have to be geared to effectiveness rather than efficiency or anything else.³ This is not to downgrade efficiency. It means only that I am not interested in developing indicators of efficiency and would be happy to leave that to others. Further, if the interest is in efficiency then the indicators should be tied to the operations of the five parliamentary departments and efforts should be made for comparative indicators across all these departments, as far as this is possible.

I am proposing four stages for developing indicators. These are:

- A list of all the functions of Parliament — a necessary starting point
- A list of the procedures used to discharge these functions
- Criteria for assessing the effectiveness of each procedure, and
- One performance indicator for each criterion.

These four stages deal with process and the improvement of existing processes. They do not necessarily allow for the introduction of new processes or procedures; for example, those associated with increased opportunities for the Opposition to have its voice heard more often in the Parliament. Further, there is an important question about whether this method, or indeed any other, can be applied to all the

³ See Department of Finance, *Performance Information for Policy Analysis*, February 1995, for a discussion of concepts.

functions, to most of the functions (including the more important ones) or only to a few of the functions of parliament.

There are three factors associated closely with development of performance indicators and they all raise questions about how comprehensive these indicators can be. The first deals with the nature of functions. These can be separated into 'decisional' functions of legislatures such as law making, and 'non-decisional' functions like legitimisation. Referring to the latter, Malcolm Shaw observes that 'such functions may be performed in the official committees of legislatures, elsewhere in the legislature, or elsewhere in the political system'.⁴ All this raises questions about the relative importance of these two types of functions and also whether it is possible to develop performance indicators for the 'non-decisional' functions.

The second factor is the imperative of measurement, which grew out of the view that bureaucracy was preoccupied with due process rather than results. A popular view around the mid-1980s was that if things could not be measured they were not worth doing. At the height of this measurement epidemic a wise person either quoted from or attributed to Albert Einstein the following saying:

Everything that counts cannot be counted.

Everything that can be counted does not necessarily count.

If we are to develop meaningful performance indicators we should be guided by this saying. Qualitative judgments based on experience, and 'anecdotal evidence', cannot be ignored.

The third factor is that there are dangers in accepting without question or adaptation functions developed by scholars of other countries. What suits Britain and Canada will not suit Australia because unlike these countries it has a strong bicameral system as a consequence of its powerful Senate. The basic function of the Senate is its house of review function. This function overlaps with other Senate-specific functions such as surveillance of delegated legislation and protection of rights and liberties. They are all linked to the power of the Senate to amend or reject legislation.⁵ In developing performance indicators it is essential to realise the position of the Senate, particularly in participating with researchers from other countries who want to develop indicators common to all three countries.

⁴ Shaw, M., 1979, 'Conclusions', in J.D. Lees & M. Shaw, eds, *Committees in Legislatures: A Comparative Analysis*, Duke University Press, Durham, NC, 365.

⁵ Aldons, M., 2001, 'Responsible, Representative and Accountable Government', *AJPA* 60(1): 34–42.

The functions of parliament

Performance indicators are related to functions and therefore the selection of functions is fundamental to the entire exercise. Yet, different people propose different functions. Hazell lists seven ‘classic functions of a legislature’ — representation, legislation, deliberation, scrutiny, budget setting, making and unmaking governments and redress of grievances.⁶ I suspect that it would be no easy task to construct performance indicators to assess or measure the effectiveness of parliamentary or other procedures for the function of representation. It would be virtually impossible to do so for the function of making and unmaking governments, particularly if dismissal is a dormant function.

Lord Norton, Professor of Government, University of Hull has ten functions and only three of them are similar to those of Hazell. Norton arranges functions according to their importance. The top three are manifest legitimation, recruiting, socialising and training of ministers and latent legitimation.⁷

My functions have a unique Australian flavour and include the three ‘holistic functions’ of manifest and latent legitimation and accountability.⁸ A Department of the House of Representatives publication says that the ‘central function of the Parliament is to consider proposed legislation and make laws’.⁹ Speaker Boothroyd says that ‘the function of Parliament is to hold the Executive to account . . . It is the core task of Members’.¹⁰

The emphasis placed on different functions raises questions on whether researchers can reach agreement on a common list of important or key functions. The value of performance indicators may well depend on what functions are central, what are not and what is capable of measurement.

Functions, procedures and indicators

However, the task could be made easier if we recognise that indicators are the final link in the chain. The links are functions — procedures — criteria — performance indicators. Table 1 contains information on the relationship between the functions of Parliament and the procedures used to discharge these functions. The table does not cover all the functions or all the procedures. It is illustrative not exhaustive.

⁶ Professor Hazell, notes.

⁷ Norton, P., 1993, *Does Parliament Matter?* London: Harvester Wheatsheaf, 203.

⁸ Aldons, 36–9.

⁹ Department of the House of Representatives 1998, Chamber Research Office, Factsheet, ‘The House and the Government’, No. 19, November.

¹⁰ Speaker Boothroyd’s valedictory speech, *Australasian Parliamentary Review* 16(1): 8, Autumn, 2001.

Table 1
Functions and Procedures of Parliament

Procedures	<i>Functions of Parliament</i>								
	<i>Account-ability (H/S)</i>	<i>Delegated legislation (S)</i>	<i>Grievances (H)</i>	<i>Informing (H/S)</i>	<i>Legitimation (H/S)</i>	<i>Petitions (H/S)</i>	<i>Protect rights (S)</i>	<i>Review (S)</i>	<i>Scrutiny (H/S)</i>
Address in reply	✓	×	×	✓	✓	×	×	×	×
Censure/confidence motions (H/S)	✓	×	×	×	✓	×	×	×	×
Committee work (H/S)	✓	✓	×	✓	✓	✓	✓	✓	✓
Disallowance procedure (H/S)	✓	✓	×	×	✓	×	×	×	✓
Documents/Paper (H/S)	✓	×	×	✓	✓	×	×	×	✓
Grievance debate (H)	✓	×	✓	✓	✓	×	×	×	×
Legislations (H/S)	×	×	×	×	✓	×	×	✓	✓
Matters of public importance etc (H/S)	✓	×	×	×	✓	×	×	×	✓
Ministerial statement H/S)	✓	×	×	✓	✓	×	×	×	✓
Motions (H/S)	✓	×	×	×	✓	×	×	✓	✓
Petitions (H/S)	✓	×	×	×	✓	✓	×	×	✓
Questions (H/S)	✓	×	×	✓	✓	×	×	×	✓

The table links procedures to functions. The additional steps are the development of criteria and performance indicators for each criterion. The purpose would be to assess the effectiveness of the procedures. The following is a preliminary attempt to apply this method to the procedures covering questions, legislation and committees.

In respect of questions the procedure is associated with four functions of parliament — accountability, informing, legitimation and scrutiny. I will concentrate on Question Time in the House of Representatives and deal only with the accountability function.

House of Representatives Practice says that fundamental to the concept of responsible government is that ‘the Executive Government be accountable to the Parliament’. It adds that the ‘accountability of the Government is demonstrated most clearly and publicly at Question Time . . . (which) is also a time when the intensity of partisan politics can be clearly manifested’.¹¹

A Department of the Senate publication says something similar: ‘One of the ways in which the Senate seeks to hold the government accountable for its actions is by questioning ministers’. One opportunity for such questioning is Question Time.¹² Since September 1992 the Senate has placed time limits on questions and answers during the questions period. Also since this date the Senate has introduced a procedure (motion to take note of answers) which gives it ‘an opportunity to debate answers which are regarded as unsatisfactory or which raise issues requiring debate’.¹³

The first criterion we can apply to assess the effectiveness of Question Time in the House of Representatives is whether an adequate number of questions have been asked on each sitting day. The performance indicator and benchmark for this number is the number asked in the Senate. Then the number asked in the House can be expressed as a percentage of the Senate figure.

The reason for using the Senate as a benchmark is that the government of the day does not control the Senate, which is thus free to develop its own procedures to suit its requirements. This is precisely what the Senate did in 1992. Therefore, it is most appropriate to use the Senate as a benchmark.

The second criterion is that the time taken to ask and answer should be reasonable. Once again the benchmark is the Senate so that the performance indicator is the time taken to ask and answer a question in the Senate. This can be used to compare the time taken in the House.

¹¹ *House of Representatives Practice* 1997, 3rd edn, L.M. Barlin (ed.), AGPS, Canberra, 499.

¹² Senate Brief, No 12 July 1998, Department of the Senate.

¹³ *Odgers’ Australian Senate Practice* 1999, 9th edn, H. Evans, ed., AGPS, Canberra, 484, 494.

In Australia there is a strict alternation of questions between Opposition (non-government) and government members in the House of Representatives. As a result the Opposition share in the number of questions asked is probably 50 per cent or a little more. But this does not necessarily mean that the Opposition share of total time is also 50 per cent. Lengthy answers by ministers to questions from their own back-bench could reduce that share to well below that percentage.

The third criterion then is that the Government should not receive a disproportionate amount of the total time of the question period. The related performance indicator would be the Opposition share and anything significantly below half would be an unsatisfactory result. The share could be obtained by counting the time taken to ask and answer Opposition questions as against government questions. This information can be extracted from Hansard.

A final matter is the relevance of answers, referred to as questions without answers by John Uhr.¹⁴ If ministerial answers are not relevant to the question all the other good or satisfactory features of Question Time amount to nought. Accountability to the House is denied. The fourth criterion then is that answers should be relevant to the question and the performance indicator would be the number (and percentage) of questions where this is not so. All this would require judgment and extraction of relevant information from Hansard.

Table 2 contains relevant information on the question periods in the House of Representatives and the Senate for the year 2000.

Table 2
The Question Period: House/Senate Statistics
(Year 2000)^a

	<i>Average length of period [minutes]</i>	<i>Average number of questions asked [number]</i>	<i>Average non-govt. share of questions [percentage]</i>	<i>Average non-govt. share of time^b [percentage]</i>
House	78	17.0 ^c	50.7	49.8
Senate	61	21.6	82.1	73.1

Notes: ^a Based on a 10 per cent random sample of the days on which questions without notice were asked in the year 2000.

^b Share of the total time of the question period

^c The average number for the year 2000 was 18.5 questions

Source: Year 2000 Hansards

¹⁴ Uhr, J., 1982, *Questions without Answers: An Analysis of Question Time in the Australian House of Representatives*, APSA/Parliamentary Fellow Monograph No. 4, May.

The figures in the table show that on average 21.6 and 18.5 (or 17.0) questions were asked in the Senate and the House respectively during the year 2000. Using the number of questions asked in the Senate as the benchmark (performance indicator) to test the adequacy of the number of questions asked in the House (criterion) we get figures of 86 per cent or 79 per cent. This performance indicator produces a good result.

The second indicator produces a different result. Using the average time taken to ask and receive an answer to a question in the Senate as the benchmark (performance indicator) to test whether the time taken in the House is reasonable (criterion) we get figures of 2.8 minutes (Senate) and 4.2 minutes (House). Can we conclude from this that the time taken in the House is not reasonable so that more questions should be asked or the same number should be asked over a shorter period?

The Opposition or non-government share of questions and share in the duration of the question period also appears to produce a satisfactory result for the performance indicator related to the third criterion, namely, that the Government should not receive a disproportionate amount of the total time devoted to question time. However, the period in both houses is characterised by frequent interruptions such as interjections and points of order. In the House in the year 2000 there were interruptions to more than 50 per cent of answers and of these a few were significant. The Senate figures were similar but lower. There is a question of whether allowance should be made for this in constructing performance indicators to assess the effectiveness of question time.

Some of the performance indicators are not difficult to construct but may require the chamber departments to provide the relevant information. Others will require considerable time and effort, particularly if the indicators are to be published on a yearly basis. Further, the history of reform of the question period in the House of Representatives does not inspire confidence. Therefore, one is entitled to ask what is to be achieved by developing performance indicators to assess the effectiveness of the question period and whether there are better or simpler ways of assessing the effectiveness of the question period in the House of Representatives.

Assessing or measuring the effectiveness of parliamentary scrutiny of legislation is connected to the functions of legitimation, review (Senate basic function) and scrutiny. We need to develop criteria and performance indicators to assess the procedures governing legislation. These should include the use of the guillotine, the number (and percentage) of bills referred to committees for inquiry and report, the number of bills introduced to repair the faults of earlier legislation and the extent to which committee recommendations influence government decision-making.

In respect of the last matter there is the important question of whether criteria and performance indicators can be developed to cover the significant change, identified by Anne Lynch, Deputy Clerk of the Senate, in Senate consideration of bills. Referring to legislation sent to committees, she says that by 1998 the 'reports, both

government and non-government, tend to restate the policy of the respective parties, articulated well before the matters even reach the relevant committees, and rarely address the detailed provisions of the bills — much less suggest or recommend amendments'.¹⁵

Parliamentary committees help to discharge eight of the nine functions listed in Table 1. The scrutiny function is scrutiny of legislation, of non-legislative policy and finance and public administration. Scrutiny covers different matters — checking to see if everything is in order, of influencing future directions and checking with the power to amend or reject.¹⁶

I will concentrate on the scrutiny of non-legislative policy and finance and public administration with the purpose of influencing government decision-making. The criterion is the extent to which committee reports influence government decision-making. What are the performance indicators for testing this criterion?

Most scholars use the number (and percentage) of recommendations accepted by government as a measure of effectiveness. I have serious doubts about this 'batting average' approach. The approach ignores implementation, which is crucial because acceptance without implementation is no different to rejection. The batting average approach also includes 'soft' (or nothing) recommendations, and does not take into account the fate of key or important recommendations. Further, the approach does not recognise that governments 'accept' some recommendations because the recommendation conforms with what the government was doing *before* the recommendation was made or even before the inquiry commenced.¹⁷

My approach is to rate the effectiveness of reports by taking the above matters into consideration. However, whatever the approach used there will be delays because of the time taken by governments to respond, the time required to check implementation and the time required to construct performance indicators.

Conclusions

Performance indicators can assist one in assessing (and, sometimes, measuring) the effectiveness of procedures used by Parliament, or outside Parliament, to discharge a particular function. A threshold question then is whether this or any other method that incorporates performance indicators can be applied to procedures associated with key functions, particularly the non-decisional ones. If they cannot we should be wary about the conclusions that are drawn on the functioning of parliament based

¹⁵ Lynch, A., 1999, 'Personalities versus Structure: the Fragmentation of the Senate Committee System', in *Representation and Institutional Change: 50 Years of Proportional Representation in the Senate*, *Papers on Parliament* No. 34, December 1999, Department of the Senate, 180.

¹⁶ Aldons M., 38

¹⁷ Aldons, M., 2001, 'Rating the effectiveness of committee reports: some examples', *Australasian Parliamentary Review* 16 (1): 55, Autumn.

on performance indicators. After all, the fact that some things are capable of measurement does not, by itself, make these more important than others.

The intention behind the construction of performance indicators is to influence decision-makers and therefore make Parliament a more effective institution. If indicators are to be used for this purpose there are questions on who is to do the work, how resource intensive would it be and how regularly would the information be published. This, in turn, raises other questions on whether there are simpler and less resource intensive ways of promoting or bringing about reform.

My advice is to hasten slowly. There are at least three ways of bringing outside pressure to bear to improve the functioning of Parliament. The first, the simplest and the least time consuming way is the direct approach before an election. Here Australasian Study of Parliament Group (ASPG) should ask Government, Opposition and other party leaders what policies they have for institutional reform. Publicity is essential for this method to have any chance of success. The various chapters should have carriage for New Zealand, State and territory elections and the editor of *Australasian Parliamentary Review* or the chair of the ASPG executive carriage for federal elections.

The second way is an effectiveness study of a particular procedure to test the methodology for constructing performance indicators I have outlined in this article. The procedure I propose is the question period. The starting point is the purpose of the period and it is insufficient to say that the purpose is to make the executive accountable to the Parliament or to the House or to the Senate.

Question Time in the House of Representatives offers the Opposition the opportunity to seek public explanation of political events in the context of the institutionalised rivalry between government and Opposition.¹⁸ The procedure is used ostensibly to make the executive accountable to the House. But the question period is used to make the government accountable to the electorate through the House. The period is also linked closely with two other procedures, the matter of public importance (MPI) and the censure or want of confidence motion. Thus the question period is both intensely political and extremely combative.

The use of performance indicators to test the effectiveness of the question period should acknowledge the politics of the process. It is probably easier to develop indicators than to succeed in changing the procedures. My criteria and performance indicators are not the only ones that are necessary to assess the effectiveness of Question Time in the House of Representatives. There is the use of supplementary questions, which is a feature of the Senate period. Stephen Redenbach described the lack of success of Speaker Halverson in allowing immediate supplementary questions as epitomising 'much about the weakness of Parliament and its capacity

¹⁸ House of Representatives Standing Committee on Procedure 1986, 3rd Report, *Standing Orders and practices which govern the conduct of Question Time*, Parliamentary Paper No 354/1986, 4.

to keep government power in check'.¹⁹ Another lost opportunity for the reform of the question period in the House was the lack of a substantive response to the Procedure Committee report on the question period presented on 27 November 1986. The Government put this report in the too-hard basket, first by ignoring it and later by dismissing it. Almost nine years after the report was tabled, the Government said that this and other reports of the Procedure Committee 'would not be responded to as the issues they contained had been overtaken by subsequent events or reports'.²⁰

Nevertheless, we should not abandon hope. I believe there could be significant value in an ASPG sponsored study of the question period in all the jurisdictions covered by the group — the federal and New Zealand parliaments, the State parliaments and the territory assemblies. A common approach would be necessary. One purpose of the study should be to rate the success of the question period according to jurisdiction. This could be the overarching purpose of the study with individual contributions according to interest. These papers and other relevant material could be consolidated and published in a special edition of *Australasian Parliamentary Review*.

If this approach is considered to be a success, similar studies of the effectiveness of procedures covering legislation and inquiry by parliamentary committees can follow. The third way is to bypass the effectiveness studies and develop performance indicators. This, too, would require a team effort and it might be more manageable if each jurisdiction developed its own indicators.

The three approaches are not mutually exclusive. Only time will tell which of these members of ASPG support and whether one or more has any impact on the reform of Parliament. And only then will we be able to judge whether Professor Hazell's seed has fallen on fertile or stony ground. ▲

¹⁹ Redenbach, S., 2000, 'Lost Opportunities: the Australian House of Representatives, its Speakers and immediate supplementary questions', *Legislative Studies* 14(2): 90, Autumn.

²⁰ Department of the House of Representatives (Committee Office), Register of Reports from Committees of the House of Representatives and Joint Committees (1970 to 1988), October 1988, 76, 159.