Parliamentary Committee Roles in Facilitating Public Policy at the Commonwealth Level[#]

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The fundamental tension in parliamentary democracies is between a responsible government conception that is executive centred and the parliamentary government conception that focuses on parliament, accountability and the need for direct public access and influence. Parliamentary committees provide a major vehicle not only for scrutinising the executive, but as an important means of facilitating public contributions to parliamentary deliberations. This article examines aspects of how the Australian Parliament's committees perform public policy roles.[1]

What do Committees Offer Parliamentary Functioning?

Parliamentary functions range from the broad to the quite specific (Table 1). The House of Representatives has nine officially identified functions and the Senate twelve (Evans 2005: Ch. 1; Harris 2005: Ch.1).[2]

The House roles most readily applied to committees are: legislative, information, accountability of government, scrutiny of government administration, financial, investigatory and delegated legislation. The Senate functions that are directly relevant to committees are the representative, protection of the individual and institutions, scrutiny of administration and government, legislative and public communication. There is of course substantial overlap in the lists, which include both expected functions and also surprises. The House of Representatives nominates making and unmaking the government (omitted from Table 1 because it

[#] This paper has been fully referreed.

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[2] See also House of Representatives, Committees Infosheet No. 4; Senate, Senate Brief No. 4: Senate Committees.

is confined to relevant functions). The Senate proposes representation (of people, groups and states), but the House does not (although grievances and petitions appear). The House, but not the Senate, explicitly registers 'investigatory' or inquiries. The common functions are scrutiny of administration (including estimates), legislative and variations on public communication.

Table 1: Functions of House of Representatives and Senate and committee roles

House of Representatives	*Senate*	*Summation*	*Committee role*
Consideration of financial proposals & examination of public accounts	Adequate scrutiny of financial measures (especially estimates)	Financial scrutiny (estimates)	Scrutiny
Surveillance, appraisal & criticism of government administration	Probe & check administration of laws	Administrative scrutiny	Scrutiny
Examination of delegated legislation	Surveillance of Executive's regulation making power Protection of personal rights and liberties	Scrutiny (especially delegated) legislation	Scrutiny (Legislation)
Initiation & consideration of legislation	Initiate non-financial legislation	Legislation	Legislation
Seeking information on & clarification of government policy Inquiry by committee	House of Review Enable adequate expression of debate Informing function	Review of government policies	Investigation Public communication
Ventilation of grievances & matters of interest or concern Receiving petitions	Ensure that legislative measures express considered views of community	Informing & interacting with communities	Public communication

Sources: Halligan, Miller and Power 2007 (adapted from Evans 2005: Ch. 1; Harris 2005: Ch. 1).

Three basic types of committee role clearly emerge: scrutiny, investigation and legislation (Halligan, Miller and Power 2007) from which a policy contribution can develop. In determining core functions, other legislative studies (e.g. Norton 2005) indicate that in addition to legislative and administrative oversight and investigation, two broader responsibilities — public interaction and communication and parliamentarians' recruitment and training — are also central to parliament and its committees.[3] Of the two public communication is relevant here, while the training function is one by-product of active committees.

[3] They also correspond to the four key functions used by Jaensch, *Getting our Houses in Order*, and which are common to all systems of government: representative, legislative, responsibility and linkage.

Identifying the implications of parliamentary functions and the different orientations of the two houses allows more subtle understanding of what each can and cannot do. In turn, this enables evaluation. Focus on these functions provides us with a basis for calculating change, and assessing the relevance and importance of committees. It should not be forgotten, however, that ultimately parliament's function is to call the government to account (Johnson 2005), and that the core roles of parliamentary committees are variations on some form of scrutiny, whether narrow or broad, minor or major, legislative or other matters of public policy.

Committee Roles

The conceptual framework for analysing how committees contribute to policy development distinguished four policy 'roles', relating to phases in the policy cycle. The use of policy roles corresponds in several respects to those of other studies. Marsh's (1995) use of scrutiny and oversight (covering current issues, budget cycle, legislation) and strategic policy making (review of major programs and strategic evaluations), are echoed in our role definitions. Compare also the Commission on the Scrutiny Role of Parliament, which differentiates performance and future plans (Hansard Society 2001) and the Bridgman and Davis (2004) discussion.[4]

The first two roles, strategic investigation and appraisal of legislation, refer to the forward looking or prospective phases of policy development, in which ideas and options are analysed and policy options presented. Strategic investigation offers opportunities for parliamentary committees to contribute independently of the executive, although they will often be either complementing or working in conjunction with the government. The breadth of issues involved means that strategic roles are more concerned with broader national matters. Legislative appraisal addresses the government's policy preferences and in terms of scope is both narrow (mainly amending legislation) and broad (significant new legislation).

Scrutiny refers to the narrower work of committees, which may be retrospective or backward looking phases of policy development, but is more likely to be prospective where established policies or programs are evaluated, often in anticipation of future changes, as with departmental estimates. There is generally a compliance and technical character to the work. The scope of the inquiries will often be less extensive than those for the many investigations of review and strategic reports.

Review is the only role concerned with issues that are both retrospective and broad. It also encompasses the policy gaps left by the other roles, and is therefore more complex. The work on review of administration and the more expansive inquiries into policy can be regarded as its essence. Review also covers narrower

[4] See also Sharp's (1991) distinction between the four levels of policy: operational, program, strategic and values (which he employed for comparing shifts in the role of public servants and politicians) is reflected in at least three of our categories.

'organisational' or 'sub-national' issues that involve neither legislative appraisal nor scrutiny.

Scrutiny reports (narrower in scope, whether retrospective or prospective) include those focusing on the reports of the Auditor-General, public accounts, public works and the examination of delegated legislation. For example, reports on public works relate to proposed works (prospective) for specific construction projects (narrow). Another example is estimates related to proposed expenditure.

Review reports are spread across the categories but concentrated in 'retrospective broader' and 'prospective narrow'. Reports that are mainly retrospective and broad in scope cover major reviews of the adequacy and performance of existing programs and are sub-divided into two main categories: management /administrative reviews either of a major agency or system, and policy and program reviews. This also covers committee reports on annual departmental reports. Another dimension (prospective narrow) covers a diverse range of reports on specific and narrower issues or proposals that fall within the responsibilities of individual agencies.

Of the two roles primarily oriented to the category of 'prospective broad', legislative appraisal is prospective in nature and covers both scrutiny of bills and amending bills (often, but not invariably, narrow in scope); whereas strategic investigation reports are prospective and broader in scope overall. The two components of strategic investigation are system-wide reviews of major proposed program and policy and agenda setting, where the intention is to take the lead in policy directions (cf Marsh 1995).

The policy roles can also be readily identified with conventional usage in parliament. There is an association of scrutiny with narrow and technical activity in parliamentary publications. The coverage of review includes annual reports. legislative appraisal in its primary forms requires no further comment. The correspondence with major types of committee work is depicted in Table 2.

Committees and Public Policy

Committees are now a substantial element in the organisational structure of the Australian Parliament with parliamentarians spending much of their time in committee meetings and well-established public expectations about their role as part of external consultation in the policy process. This raises a fundamental question about the value of committees and what they contribute to the development of public policies and to the institution of parliament.

There are two ways to examine how committees affect policies. The first is to consider their impacts on public policies through their reports and recommend-ations. One apparently obvious measure is the acceptance and implementation of

recommendations by government, but this is difficult to determine in practice except on a limited case study basis; and the interpretation of such statistics can be complicated by the politics of formulating committee recommendations and anticipation of recommendations by the bureaucracy. For the purposes here it is appropriate to also distinguish broader processes as a means of appraising different types of impact — on experts and public policy debate as well as on government. These questions can also be considered through committee roles and their added value. What occurs as a consequence of committees? What is their impact through the performance of the policy roles of scrutiny, review of legislation and investigation, and through other roles in public communication?

Table 2: Reports by policy role and type of report, 1970–1999

	1970–99	*1970–99**	
	N	*%*	*%*
Scrutiny	1590	100	49
• Public works	449	28	
• Delegated legislation	377	24	
• Estimates	369	23	
• Public accounts	179	11	
• Other scrutiny	216	14	
Investigation			35
Review investigation	843	100≠	(26)
• Policy	216	26	
• Administration	388	46	
• Annual reports	210	25	
Strategic investigation	277	100	(9)
Legislative appraisal	399	100	12
Total	3220		

Notes: * Reports on committee operations accounted for three per cent (111) of total reports.
≠ Includes three per cent (twenty-nine reports) for Other Review.

Source: Halligan, Miller and Power 2007: Table 4.3

There are important and interesting questions about what tasks parliament — particularly the Australian type of parliament — is good at. The type of work undertaken varies between the low key and the useful that may complement government initiatives or at least fall outside party contestation, to more policy salient and political work that is oppositional in nature. If low-level tasks, how meaningful is this more generalised interest of MPs in contributing to policy? Notwithstanding the central role of the department of state in pursuing policy outcomes, how much of a role can parliamentary committees play beyond presenting policy options and stimulate policy debate? This discussion therefore anticipates a fundamental question about the emerging character of the Australian

Parliament and about the purposes committees are allowed to serve and their effectiveness.

Committees and Policy Stages

Committees engage at various stages in the policy process and with various actors, such as members of the government, bureaucracy and policy communities. An accepted depiction of the role of committees contributing to the policy process is through representing community views and feeding in recommendations and information (House of Reps Standing Committee on Procedure 2001: 3).

An assumption is often made in examining process that it operates in and around the authoritative decision makers. In the Australian context the decision stage is dominated by cabinet, and here we adopt an executive-centric process in the depiction of parliament and the policy process (Table 3) (Bridgman and Davis 2004: 28; cf Eichbaum and Shaw 2005). It is important to note that contributions by parliamentary committees are not standard components of the policy process, certainly in the earlier stages. Committees are prominent at the legislative stage and have review and scrutiny options through, and to some extent even beyond, the policy implementation stage.

A starting point is provided by perceptions of committee roles among the parliamentarians interviewed at an early stage for the study (Halligan, Miller and Power 2007). These reflected experience with a number of committee activities,[5] including scrutiny of administration, appraisal of legislation, contribution to policymaking and consultation with the community.[6] There was general recognition of committee contributions to policymaking, and often this was made explicit as the primary role. Some members saw policy as a no-go realm: 'I don't know about contributing to policy making though because that's very much where you get into the political arena'. Another had a different conception of the political: 'The trouble with scrutinising administration is that that's really a part of a political process and … if you're going to do that through the committee system, you're going to prejudice its ability to work together as a unit'. One general conception was of the committee as 'a vehicle for transmitting ideas, for raising issues that otherwise might be neglected ... all part of influencing policy'.

There was one important factor shaping responses: all senators and MHRs can participate in scrutiny or debating the merits of legislation in the chamber, but with committees it depends on opportunity. A distinctive but not surprising feature of committee leaders' responses therefore was that their perceptions of committee roles reflected the chamber in which they were located: appraisal of legislation and scrutiny of administration did not show up among MHRs, whereas investigation

[5] They were comparable to the general range of roles discussed in Halligan, Miller and Power 2007: Chapter 8.

[6] Committee leaders were asked: What are the most important roles of committees?

was prominent. It was also recognised that committees specialised in different functions.

Parliamentarians' perceptions of roles also depended on the nature of their committee experience. These factors produced substantial variation in how they perceived committee roles. One parliamentarian might argue for the scrutiny of the administration of government departments while others would favour legislation or investigative inquiries. A number paired different roles, for example, citing review of legislation and scrutiny of administration as the two primary roles, while others discounted them as significant. The connection between policy and legislation was recognised: 'you can't really distinguish between policy making and reviewing legislation because although you're not supposed to be reviewing the policy when you scrutinise legislation ... it does become part of, in effect, the committee stage of the Bill'. There was then a spectrum of entry-points to the policy process (Table 3).

Table 3: Parliament committees and the policy process

Stage	*Contribution*	*Roles*
Agenda-setting	Committee inquiries and reviews can influence government policy agenda	Investigation: Review Strategic
Developing policy	No formalised role, but possible on behalf of executive Exposure draft bills	Investigation: Review Strategic Legislation
Decision making	No direct role	
Implementation of decisions	Legislation (and other committees) examine bills, recommend amendments Delegated legislation	Legislation Scrutiny
Evaluation of policy implementation	Committees review performance of public agencies and administration of policy.	Investigation: Review Scrutiny
Consultation	Major role for committees at several stages	Public communication

***Agenda-setting**:* Agenda-setting and issue identification were understood in terms like 'putting new things on the agenda; 'drawing attention to the problems'; '[within] the community of issues'; and of the committee system as an 'avenue for policy generation'.

A good example is the Senate Select Committee on Superannuation, which 'virtually shaped the evolution of superannuation policy in Australia' (Holmes 2005: 10). The committee filled a policy vacuum in the 1980s when the superannuation industry lacked coherence and the political parties had yet to acquire explicit positions. The committee was provided 'with a golden opportunity to pursue the roles of honest broker, consensus-builder, educator and technical expert' (Holmes 2005: 11; Hooper 2005), which extended beyond agenda setting.

Policy development: A distinctive committee role was supporting the policy developmental aspirations of the executive, in particular as a tool for ministers. For example, when a minister has difficulty promoting a new policy proposal, he may arrange a reference to a committee to investigate the matter. A unanimous recommendation from the committee may then provide the minister with a very strong case to argue in a cabinet.

An interesting experiment in the House has been with the 'exposure draft' in which the government publishes a draft bill and explanatory memorandum before the bill is introduced (Harris 2005: 342). This practice has occasionally been used during the 2000s.

Implementation of decisions*:* During the 1990s Senate committees produced well over 321 reports on bills, the number of bills reviewed totalling 455 (two or more bills often being examined during the same inquiry). Overall 20 per cent of all bills considered by the Senate were reported on over the decade. While the number of bills considered by the Senate has remained stable over time, Senators have made an increasing use of committees to examine bills. From 2000 to 2004, the percentage of bills sent to committees increased to 25 per cent, with another 288 bills reported on.

Evaluation of policy implementation: Administrative oversight has been regarded as a primary responsibility of legislatures, even if it has not necessarily always performed effectively (Shaw 1979). Standing and joint committees review the performance of public agencies and scrutinise the administration of government policy. There was a cohort of parliamentarians that supported the idea that 'scrutiny of the administration of government departments and ministers is very important', but others downgraded scrutiny in favour of legislation or investigative inquiries. Each of the three may invoke performance evaluation, but in different ways.

Public consultation: There is clarity about the House's conception of the role of committees as 'representing community and other views in the public policy process' (House of Representatives Standing Committee on Procedure 2001: 3). These linkages between policy making and community communication were well-understood by parliamentarians who made comments like: 'Interaction and consultation with community interests ... and contribution to policy making are virtually indivisible' and 'policy making should be based on community interests and community opinion in a democracy'.

Committee leaders were highly conscious of communication with the community, and the interrelationships with other roles. Close connections were also seen between legislation and consultation. As one member observed 'reviewing legislation is very important … and flowing from that of course is the interaction and consultation with the community because it gives them a chance to have a very important and readily assessable channel of input on legislation that will affect them or their interests'. Another commented that 'you review legislation partly by

interacting and consulting with community interest, which leads to policy making ... [I] actually see legislative change as a review mechanism which involves interacting and consulting'.

Variations on this theme were the need to involve the broader community in the policy making process, providing a forum for policy debate and the committee as an extension of the democratic process that becomes thereby more participatory.

Assessing Policy Impact

The evaluation of the performance of parliamentary committees would appear to be a straightforward matter from a theoretical viewpoint. The 3220 reports produced over the past three decades could be assessed for their cumulative policy impact. What 'strike rate' have they achieved? A further question might be about whether such a strike rate justifies the substantial investment of resources committed to the committee systems.

From this viewpoint also, assessment of parliament's committees might even appear especially well suited to the positivistic approach characteristic of mainstream modern evaluative work. Wherever possible, the conventional orthodoxy goes, 'decompose' complex institutional developments into discrete component parts, then assess each of these parts (in this case, individual committee reports and their impacts) and then aggregate the assessments so as to gain an appreciation of the overall performance of the institution being examined. There is little doubt that the outcome of such a massive evaluative exercise would be ambiguous and inconclusive, if only because there are typically too many players and interactions in most policy processes for the distinctive contributions of individual players, such as a parliamentary committee, to be evaluated in a quantitative sense. The committees themselves reflect to varying degrees the politics of parliament. For example, the Senate committee system has been used by the parties — which are of undoubted policy consequence — to develop a position or reach an accommodation.

A further point is that a great many of the 3220 reports produced by committees over the past three decades relate to very specific administrative or technical issues, and the immediate policy impacts of such reports individually are likely to be limited to a very narrow area of activity. In summary, examples of parliamentary committees producing decisive reports that can be shown unambiguously to have had major policy impacts would not be commonplace. Finally, it should be noted that an exercise to assess performance through impact on policies would beg complex questions about whether those impacts 'improved' the policies concerned.

Returning to the apparently obvious measure of committee performance, 'strike rate', defined as the percentage of its recommendations accepted and implemented by government, the reactions from committee secretaries are instructive. A

committee can score highly on this indicator by eschewing recommendations that are unlikely to gain ready acceptance. A committee secretary observed that they were not courageous and would discuss whether it was worth making a particular recommendation: 'We're not doing it because it will make our statistics look bad … Whereas other committees will say: "We think it's the right thing anyway, so … we're going to recommend it". And you chip away and eventually policies change. So we're nor very courageous as far as that goes'.

Senate committees seem less concerned with 'strike rates' according to their committee secretaries: 'I don't subscribe to the scoreboard mentality of how many recommendations were made, and how many were accepted by the government ... That really doesn't take into account a lot of the other very positive and constructive outcomes'. A Senate stance was also apparent in a perspective on 'the fascination with inquiries. You have to follow where the evidence leads and if it takes you up paths which are unexpected or even unwelcome — you just have to accept that'.

In these circumstances, a reliance on the systematic aggregation of 'strike rate' statistics is not a fruitful exercise.[7]

Policy Impact as Defined by Parliamentarians and Officials

In order to reach a realistic assessment of policy impact, consideration was given to specific cases and secondary sources and interviews with committee leaders in both houses. There were two basic types of impact: on government and on non-government interests or different policy communities.

One indicator of regard for committees and their work is the reports that have been cited as significant by our members. What sorts of reports attracted the greatest approbation in the 1990s? For the most part, our informants cited reports from their own 'home' committee system, drawing on their own experience. The rationale for nominating a report usually reflected the impact on broader stakeholders and reference source or some other precedent. Overall, only a small percentage of reports were cited as being especially meritorious, mostly with only single citations. Only twenty-one received two or three endorsements, those with three citations being *Ships of Shame*, *Come in Cinderella*, animal welfare, CSIRO research and

[7] Compare the similar conclusion for the British House about Commons: Drewry 1989; and that for the impact of performance audits: Lonsdale 1999.

human rights.[8] The broader scope investigative inquiries (review, forty-five per cent and strategy, thirty-seven per cent) attracted the bulk of the commendations.[9]

Impact on Government

There is substantial evidence that many committee reports achieve a high acceptance rate. One former House committee secretary reports 'about ninety-five per cent acceptance by the government of our recommendations' (Aldons 2000, 2001).

A committee secretary also noted that there are 'other outcomes from an inquiry rather than just how the government responds to certain recommendations ... Maybe the fact that there has been an inquiry has shaken up the bureaucracy or changed the minister … into a different policy channel. Or it's made an issue into a public issue'.

With the recent committee reporting the Administrative Appeals Tribunal Amendment Bill 2004, it was found that 'after the report was tabled, and before the bill was debated, the government introduced its own amendments, effectively picking up most of the committee's recommendations' (Holmes 2005: 4). With the report on Australia's relations with the South Pacific 'the government adopted handsomely the major recommendations of the committee'. Most recommendations from an inquiry into breast cancer screening were accepted and 'this acted like a whip on the state bodies responsible for breast cancer screening in particular Queensland ... snowball effect was the House of Representatives. setting up an inquiry into breast cancer treatment' (Senator Liberal). The impact on public policy of inquiries was apparent in other ways such as a new national park or World Heritage Area.

Impact on Administration

By far the most regular instances of parliamentary committees having some form of policy impact is through the much more commonplace activities of scrutiny and review (or 'everyday policy-making') (Page 2001). Here, any attempt at systematic evaluation runs up against the well-known phenomenon best described as the 'rule

[8] Committee reports with two citations were on the subjects of superannuation, agricultural and veterinary chemicals, literacy in schools, Latin America, ADP in the Commonwealth, Australian fishing industry, home and community care program, Thailand, Indonesia, equal opportunity, breast cancer screening, air traffic control, youth unemployment, small business, North West Shelf and education of gifted children.

[9] The Senate's web site listed 'Significant reports tabled before 1996', but only two standing committees produced 'significant' reports, and none since 1987. In contrast, Senate select committees were not only dominant, in particular the long-standing animal welfare and superannuation committees, but were the exclusive source of significant reports for the 1990s up until 1996.

of anticipated reactions' (Friedrich 1963). Officials in the executive branch continuously adjust their plans when they know in advance that these plans and the proposals that derive from them are going to be subjected to close committee examination.

you don't see the changes straight away, because the Minister doesn't have to accept what you recommend in your report, but they accept quite a bit of it and it also starts public service thinking ... 'maybe we should start doing something along these lines.' They don't like to admit they're wrong at any time but they'll pick it up later on down the track (MHR Labor).

A good example is provided by the experience of the Senate Employment, Workplace Relations and Education Committee. During 2000, a review of the vocational education and training sector was conducted that indicated abuses of the New Apprenticeship Scheme:

As the committee traversed the country, DEST officials worked hard to repair the damage being uncovered, and by the inquiry's end the government had already drafted amendments to the relevant legislation in an attempt to demonstrate that it had everything under control, and presumably to avoid being seen to be responding to the recommendations … from the committee's final report (Holmes 2005: 12).

Some cases of report impact cited by MHR and Senators were:

a) Third World Debt report had the effect of causing the Treasury and ADAB to take seriously an issue that they had neglected.

b) Sexual Harassment was important because not much work had been undertaken on the subject, particularly in the Defence Forces, and it laid down some criteria as a basis for setting down policy in the future in the public service.

c) Selection and Training of Senior Managers for the Public Service became regarded as the fundamental report upon which reforms were subsequently based (e.g. SES establishment and greater equality of opportunity for women in the public service)

d) Review of the Tax Office was described by people in the Tax Institute 'as the best that they've ever seen'.

Impact on Different Communities and Experts

The more typical response was to see the impact in terms of a broader community and public policy rather than government per se. For example, family law: 'the most significant because of the number of people in the community affected by it'. Or the human rights inquiry that was depicted as 'groundbreaking … for us, for DFAT, for everybody involved' (committee secretary). The impact was greater than a senator had anticipated in terms of the 'Human Rights constituency here in this country and

well beyond … And the response was just overwhelming from a lot of places around the globe, from a lot of the diplomatic community here and the media and beyond'.

The *Ships of Shame* Report was widely recognised because it:

> changed attitudes throughout the world. I've made two overseas trips in connection with that. Most of them scoffed at us and said it would never happen. *Lloyds List of Shipping*, the shipping magazine, wrote: What would these Australian politicians know about shipping?' Like all politicians they'll have a knee-jerk reaction. When that Report came out that same newspaper, the leading shipping newspaper in the world, congratulated us (MHR, ALP).

> The process of the inquiry put a lot of information into the public domain that really stimulated the debate. The report was regarded as having a big impact on ship safety, international regulations, port control and shipping generally coming into Australian ports (MHR, ALP).

The Foreign Affairs Committee produced a report on Australian relations with Latin America, which was regarded as focusing Australian foreign policy on a neglected area of the world. According to a senator (ALP) the Department of Foreign Affairs and Trade had virtually no

> overall perspective on Australian relations with Latin America … the Inquiry ran for two years, brought down a Report that — when I travelled in Latin America in 1992 — people talked about, and it really did serve to focus Australian Foreign Policy on an area of the world that had been somewhat neglected.

Other members added similar observations such as this was 'the first time that I can recall we had Ambassadors from those countries in Australia who gave evidence … All of those countries came and looked for copies of it; used it in their diplomatic efforts to understand the relationship better'. Three other cases were: 'Study of Nuclear Powered Warships' was 'regarded around the world by the "in" people as the most thorough coverage of the issues in the world and it is now used as a basic reference tool'; *Come in Cinderella* on adult education: 'now a textbook in the universities. It's one of the definitive works'; and The Joint Committee 'Report on Drugs, Crime and Society': 'is still referred to around Australia'.

It was apparent therefore that members' reference points for judging committee reports were not in terms of government responses but broader acknowledgement in the national and international community and by experts.

Public Consultation

An important aspect of committee examination of bills is that it is usually subject to the open and public processes associated with other committee inquiries: it involves consultation with representatives of interest groups and other members of the public through public hearings, and it results in public reports. It thus enables far more

public participation in parliamentary law making than is possible when deliberation is confined to the main chambers of parliament.

Over the three years 1997–1999, nearly two thousand witnesses attended inquiries of the Senate's Legislation committees relating to bills, with the numbers rising from 301 in 1997 to over a thousand in 1999 (Table 4). Since then, they have tended to stabilise at around 400–500 a year. This is a substantial addition to the information and diversity of comment on record for bills, compared to the previous situation in which Hansard records of debates on bills were virtually the only source of information. Again, it needs to be noted that a few bills attract very high number of witnesses. The classic example is the Euthanasia Laws Bill that attracted an unprecedented 12,577 submissions, as reflected in the figures for 1996 below.

Table 4: Witnesses & submissions to Senate Legislation committee inquiries 1995–2004

	Legislation committees			Submissions
	Witnesses			
	Estimates	Bills	Total*	
1995	na	na	4,170	573
1996	na	na	2,959	14,144
1997	1,674	301	1,979	582
1998	1,802	581	2,383	4,141
1999	3,651	1,024	4,765	4,689
1994-99	7,127	1,906	16,256	24,129
2000	3,724	787	4,532	874
2001	2,576	413	3,091	654
2002	2,833	488	3,452	2,996
2003	4,237	512	4,858	1,128
2004	3,003	443	3,560	1,414
2000-04	16,373	2,643	21,293	7,066

Notes: * Includes witnesses for other inquiries (45 in 1999, 114 in 2004).

Source: Source: Halligan, Miller and Power, 2007, Table 7.5, based on Department of the Senate, Work of Committees.

Where the quality of evidence is substantial, the benefits are clear. Despite the committee inquiries that were subject to acrimony (e.g. the GST process), Senators

were able to inform and refine their positions based on the evidence presented and wider debate was facilitated.

Policy Roles and Parliamentary Functions

We have seen how committee work fits into a number of different stages of the policy process. Here, we examine the value of committee activities through the contribution of each of their roles. But first we need to clarify the types of work that receive attention.

One generalisation about the listing of members' favoured reports discussed earlier is that they were ones that stayed well clear of major areas of partisan disputation. Committees may also assist a government in resisting political pressures: 'the committee played an important role in maintaining the Commonwealth's responsibilities and activities in environmental protection' (House committee secretary).

Scrutiny*:* Scrutiny work is compliant in character, requires examining documents (reports, draft legislation or accounts) according to a checklist or guidelines and the reports are inclined to be narrow and focused on technical dimensions of rules and procedures. Amendments may be relatively minor, which is not to say that their public policy implications are unimportant.

Senate delegated legislation committees and joint committees serviced by the House of Representatives account for most scrutiny reports. The main committees indicate the focus: Public Accounts and Audit, Public Works, Regulations and Ordinances and Scrutiny of Bills. Committee procedures are inclined to be highly standardised with the referral of work automatic to several committees, and fixed criteria forming the basis of their work. This work has generally been conducted on a nonpartisan basis. The core activities have high legitimacy across the political spectrum.

In the field of delegated legislation, one indicator of the standing of the Regulations and Ordinances Committee is that its recommendations for disallowing particular regulations have almost invariably been accepted by the relevant minister, without the need for formal Senate endorsement of the committee's reports. 'It has in fact been several years since the committee recommended to the Senate that it disallow particular regulations. This is not evidence that the committee is not needed ... It is evidence that the committee is doing its work — keeping officials to the standards required' (Holmes 2005: 8).

Legislation: Long the laggard in referring committees to committees, Australia has substantially caught up during the last decade or so. It has still stopped short of automatic referral of legislation, a practice of some but by no means all comparable parliaments. However, a comparison of 1990 to 2001 with 364 reports and 2002 to

June 2005 with 155 reports indicates that legislative review is now extensive (Holmes 2005: 7).

While there are no statistics about the extent to which the government has accepted committee recommendations — and the culture remains one of unwillingness to acknowledge contributions — the influence is accepted as substantial.

Investigation*:* The review and strategic types of investigative inquiry were distinguished. Review reports focus on the evaluative phase of policy development, and are concerned with issues about ongoing programs with wide impacts on government and society, and with questions about the 'effectiveness' or 'appropriateness' of policies or programs (compare the 'compliance' or 'efficiency' interest of scrutiny inquiries). In a review process established policies or programs are evaluated, often in anticipation of future changes to those policies or programs. Investigation dominated members' judgements of esteemed reports.

Public communication*:* In a parliamentary democracy, the extent to which parliamentary committees contribute to discourse and deliberation on public policies is a highly important aspect of their work, by which they should be judged.

The extent to which these procedures achieve such objectives varies widely: some inquiries generate wide and high level participation from officials and sometimes hundreds of submissions from the public, whereas others arouse little interest. The fact remains, however, that all these processes associated with committee inquiries are a important aspect of the policy roles performed by committees; and judgements about the policy impact or influence of committees should have regard not only to specific changes that might be attributable to their reports in the short term, but also to the reflection and deliberation the inquiry processes may have stimulated more widely among officials and interest groups, over the longer term. The cumulative effects of such processes, multiplied over the thousands of inquiries conducted by committees over the last three decades, could be regarded as a significant and sustained exercise in arousing public participation in government.

For the Senate, during the four years, 2000–01 to 2003–04: about 20,000 submissions were received; over 10,000 witnesses appeared and around eighty-five per cent of the meeting time of committees was public, particularly where inquiries were involved.

There is also a strong element of educating the parliament, according to committee clerks (another parliamentary function identified by some sources):

> … you can end up with a cache of education — sometimes it's the first time there's been a repository of information on that matter to that extent. And that in itself is an educative process for the Senate
>
> … the Opposition members who were listening to young people … were then able to go back … to the debates that were happening in the Party room … there were

> some shifts in the way that the Opposition were developing their policy in relation to young people
>
> … after Kim Beazley became Minister of Defence, we could see him working through the finer things which we had worked through on committee level …

The House of Representatives has been focusing on improving communication and public involvement, and proclaims that 'it is through the activities of parliamentary committees that the community has the greatest opportunity to become involved in the day to day work of our parliamentary system' (House of Reps 1999: 41; 2001).

Capacity and Public Policy

How do the contributions of parliamentary committees to public policies compare with those of other bodies with similar powers and methods of inquiry, such as royal commissions and reviews initiated by government?

Two issues that can arise with all such inquiries are their independence and scope: to what extent are the terms of reference for individual inquiries constrained by those who authorise the inquiries and what is the potential breadth of public issues that such inquiries can address, collectively, over time? The authority for inquiries by parliamentary committees comes from parliament and is thus significantly different in principle, and may in some cases be significantly different in practical effect, to the authority given to commissions and other reviews initiated by the executive. Choices about fields of inquiry by parliamentary committees, individually and collectively, can be wider and more independent of the executive, particularly in the case of Senate committees. On the other hand, the depth of individual inquiries may be more limited for parliamentary committees, if the executive restrains the exercise of committee's investigative powers (by withholding information from committee under the pretext of public interest immunities for example). A balanced system of public inquiries into public policies that covers the range of issues addressed as well as depth in individual inquiries must therefore be able to draw on the authority of parliament as well as that of the executive for the conduct of inquiries.

A striking difference between inquiries by parliamentary committees and the other types of their inquiries into public policies noted earlier is comprehensiveness and continuity. The system of committees now established in the Australian Parliament can address virtually any public issue. While choices of inquiry subjects are in practice influenced by the political dynamics of every committee, the potential policy coverage is, overall, far wider than has or can be addressed through the relatively small numbers of infrequent inquiries by commissions and official reviews initiated by the executive. The other distinctive feature of parliamentary committees — their continuity and their scope for ongoing investigation of particular issues — also enormously extends their potential policy coverage by comparison with other types of inquiry.

Enhancing Parliament's committee systems

Questions have been raised about the impact on committees of the changing composition of the Senate in recent years. The test of this rests first on the durability of the parliamentary committee roles, and then on the level of support for these activities. The first test does not depend on whether the three roles will continue — for they all will — but on the strength and vitality of these roles.

For scrutiny there is no doubt that this low key but important work will continue in two main areas: the technical work on legislative scrutiny and the compliance and narrow review of the joint committees, which are almost exclusively non-party and are valued regardless of party affiliation. The place of estimates is very different because they are by their nature intensely political and inter-party. They are sufficiently institutionalised to be inviolate in terms of formal existence, yet their efficacy can be attenuated by reducing the number of meeting days, restraining the contributions of public officials and challenging the coverage of questions in the hearings.

As for legislative appraisal, the referral of bills has become standard in the Senate, and it is unimaginable that this would be substantially curtailed. Yet this remains a possibility if fewer bills are being referred to committees operating with shorter reporting times, and with their proposed amendments ignored. There is also the question of whether the parliamentary contribution will be reinforced through pre-legislative scrutiny.

The most vulnerable role has been that of investigation where much of the more original policy work has been mounted by the House of Representatives and the Senate (and some joint committees). There remains huge untapped potential for parliamentarians to explore further the potential of the strategic dimension of investigation, often on a cross-party basis. The review work has provided cases of the most controversial inter-party activity of parliament, even though most of this work is more cross-party in character. Restrictions on references, orders to produce documents or to appear, and opportunities to make submissions, all represent movement away from parliament's capacity to act.

Otherwise, the consolidation of parliament committees starts with the existing roles and the means for strengthening them.

With regard to its legislative role, the automatic referral of Bills to committees is a well established in other parliamentary systems that would preclude executive intervention at the point of referral. In addition, the Australian parliament has yet to institutionalise a committee role in the framing of draft legislation, although we have identified recent instances of committees successfully pursuing a legislative goal (e.g., the campaign of the Public Accounts Committee to gain an explicit role in relation to the audit function). One option for a more meaningful legislative role is to move more routinely into early emerging policy issues allowing them to

contribute and possibly shape subsequent legislation. The recent cases of committee inquiries responding to the exposure drafts of bills released by departments provide one option. More generally, committees that have developed substantive expertise are well placed to propose constructive improvements to bills that may come before them. Similarly, committees specialising in investigation to move early into emerging policy issues, and thus influence subsequent government commitments.

For parliament to become a more persuasive advocate of greater accountability in governance, it may need to subject itself to the disciplines it imposes on others and continue to review its own performance. At the committee level explicit attention can be given to performance review. The committees can take the initiative by reporting on committee work annually or at the end of each parliamentary term (which is still unevenly done by parliament) (Aldons 2000; Uhr 1998), because if committees are to become even stronger advocates of accountability in governance, they will have to lead through example. The outcomes of committee recommendations and government responses are another unresolved area. An aspect that requires attention is committee follow-ups on the implementation of recommendations and the impact of their reports. Unless committees display sufficient interest in outcomes, this area will continue to be neglected (Aldons 2001: 59).

Apart from also being a critic of the uneven performance of governments in meeting their formal responsibilities for responding promptly to committee reports, Aldons (2000: 30) has recommended that tighter protocols be established for government responses with explicit options such as 'accepted in principle or in part', and 'the government accepts the premises of the committee's recommendation' or 'the broad thrust of the various recommendations made'.

There are questions also about the membership and leadership of committees. The condition of the Senate's committee system as a consequence of the expansion of their size through participating members is an issue that requires reconsideration. There would seem to be a case for stabilising the size of committees and reducing the number of 'floating' members. The sharing of committee chairs was an attractive initiative when it was taken, but it appeared to produce partisan posturing. Experience in the Victorian Parliament may be instructive. At the very least, this practice can be exposed to critical scrutiny (compare the Victorian experience of sharing in the 1980s and 1990s).

The role of parliamentary committees in assuring the integrity of government provides a new context for evaluating their work. This avenue was opened up through the National Integrity Systems Assessment report (2005)[10], which argued that there was a pressing need for greater coordination between the activities of various agencies concerned with the integrity of government institutions, e.g. auditor-generals, ombudsmen, parliamentary scrutiny committees. A US

[10] Key Centre for Ethics, Law, Justice and Governance, *Chaos or Coherence?*

commentator, Bruce Ackerman (2000) proposed that this mixed congeries of agencies should be accorded recognition as a separate integrity branch of government.[11]

In this context, the work of the committees is compared and evaluated, not so much with other parliamentary entities, but rather with that of non-parliamentary agencies. And parliamentary champions have pressed the case for parliamentary committees to assume the leading roles necessary for attaining greater coordination (Griffith 2006). Some of committees (Halligan, Miller and Power 2007) — including Public Accounts and Audit, Regulations and Ordinances and Scrutiny of Bills — would be well-placed to take on such leadership roles. They have existing symbiotic relations with the professional communities, such as the auditors and the administrative lawyers, most closely concerned with integrity in government. Were committees such as these to become more closely involved in the coordinating the activities of a range of non-parliamentary agencies, the implications for parliament as an institution could be profound.

Is it possible for parliament to make a stronger contribution to the making and coordination of public policy? There has been evidence of this potential through parliament being the biggest 'policy shop' in the nation. However, an appropriate organising framework that is comprehensive but loosely articulated has been provided by Dror (2001) — with its stress on the need for 'future-shaping quality governance' if we are to cope with increasingly serious global problems — may prove to be the needed intellectual resource.

The Australian systems have not yet attained the balance of their German counterparts, where policy activist MPs work within a matrix model with committee along one dimension and party along the other. Once a consensual position has been established in a committee, members have advocates for that position in their respective party rooms. The Senate system would be well placed to take the leading role in developing such a matrix role.

Conclusion

At the most general level, it can be concluded that the most important effect of the growth of committee work over the past third of a century has been the broadening of opportunity for participation in policy shaping debate. The broadening has, of course, been most obvious in relation to MPs. In the traditional Westminster system, opportunities for MP involvement were largely restricted to the party room and party committees. While these retain great significance, MPs have been exploiting new opportunities both through and despite the limitations of political parties.

[11] A proposal supported by the New South Wales Chief Justice James Spigelman (2005).

Beyond the MPs, a range of individual citizens and public interest groups are now increasingly able to participate in policy development through involvement in the work of the committees. As the parliament moves through the twenty-first century, these opportunities for 'outside' engagement may come to be of the highest significance for the functioning of the parliament as the leading institution of representative democracy in Australia. ▲

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