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The background of the book cover is a photograph of a weathered brick wall. Overlaid on the left side of the wall is a black, stylized tripod-like structure that extends from the bottom towards the top. The structure has three legs and a central vertical pole with a horizontal crossbar.

SENIOR EDITION

# Australian Politics and Policy

Edited by  
Peter J. Chen, Nicholas Barry,  
John R. Butcher, David Clune,  
Ian Cook, Adele Garnier,  
Yvonne Haigh, Sara C. Motta  
and Marija Taflaga

# **Australian Politics and Policy**

**Senior Edition**





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David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C.  
Motta and Marija Taflaga



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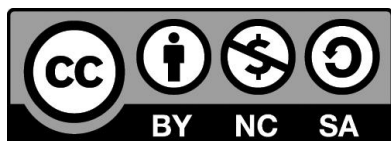
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# Introduction





# Introduction

Nicholas Barry, John R. Butcher, Peter J. Chen, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga

Australia is a 'small' nation of 25 million people occupying a large geographic space. It is the 53rd most populous country and has the 13th biggest economy in the world.<sup>1</sup> Australia continues to play an important role in geopolitical affairs, particularly in the South Pacific. Importantly, it is home to one of the world's oldest continuing Indigenous peoples; these peoples carry wisdom with which to contribute to re-thinking our conceptions of politics, political subjectivity and sovereignty.

This book is a broad introduction to Australian politics and public policy. This field of study is important for Australians to understand the exercise of political power, their history and the scope for change. It is also important for analysts outside Australia looking for comparative cases. Within this volume are diverse topics and perspectives, demonstrating that the study of Australian politics and policy is not 'fixed'. Rather, it is a contested field of academic scholarship. Indeed, the volume's editors do not all agree on the content of this introduction!

Viewed from outside, Australia's political and policy landscape is both familiar and unusual. Like many former British colonies, Australia retained Westminster traditions after it gained independence. Australia's trajectory was like other Commonwealth countries: from direct military administration to advisory 'upper house' legislative councils, to expanded councils with partial elected representation, to expanded elected representation and 'lower house' legislative assemblies, and, finally, to the acquisition of full 'responsible government' and the shift of authority from colonial governors to premiers. As with many settler-colonial states, Australia's

Barry, Nicholas, John R. Butcher, Peter J. Chen, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga (2019). Introduction. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 World Bank 2018.

history is predicated upon genocidal policies, logics and practices<sup>2</sup> that attempted to erase a people and a culture. Indigenous sovereignties were not ceded, and issues of sovereignty, history and reconciliation continue to be important and contested fields of politics.<sup>3</sup>

Looking at political debate in Australia over the last half-century, there is much that would be familiar to international observers: particularly the growth and contraction of the welfare state, economic deregulation and global integration, and the changing status of women and sexual and ethnic minorities. Australia hews close to the policy and political currents of those nations with which it shares strong political and cultural ties within what has been referred to as the political 'Anglosphere'<sup>4</sup>: a sphere of interaction wherein history and shared language increases the tendency for direct policy comparison, learning and transfer. More recently, Australia's diverse society has tempered this Anglo-Celtic linguistic and cultural dominance with influences from the continuing presence of Aboriginal ways of life<sup>5</sup> and from an increasing number of migrants from non-Western nations arriving after the end of the 'White Australia' policy in the 1960s.

Australia was a leader in the development of the welfare state at the turn of the 20th century<sup>6</sup> and in undertaking radical re-engineering of public service delivery as the century came to a close.<sup>7</sup> The latter changes, broadly informed by what some call 'neoliberal' public administration, continue to fuel debate.<sup>8</sup> Democratic values, such as universal suffrage, took early root in colonial Australia.<sup>9</sup> While there is a commitment to broad British liberal traditions, nationhood saw the importation of political ideas from the USA, leading to the creation of an Australian Federation.<sup>10</sup> Yet, there have been enduring social conflicts over who gets to come to Australia and who gets to participate politically, as seen in the political exclusion of Indigenous peoples and specific ethnic groups during much of the 20th century and the countervailing tendencies of ongoing 'racialisation' – creation and policing of racial categories – in the Australian settler state and society.

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2 This perspective is contested by some working outside of Indigenous/decolonising political theories and even within the editorial team itself. Although a number of the policies and practices of colonial and Australian governments (including state and territory administrations) can be interpreted as 'genocidal' within the meaning of the 1948 Convention on the Prevention and Punishment of Genocide (UNOHCHR 2019), their portrayal as 'genocide' is not universally accepted.

3 Harrison et al. 2017.

4 Gulmanelli 2014.

5 Watson 2014.

6 Castles and Uhr 2007.

7 Halligan and Wills 2008.

8 Spies-Butcher 2014.

9 Pickering 2001.

10 Maddox 2000.

## The study of politics and policy

The study of politics and public policy in Australia embodies diverse approaches, with different underpinning objectives and methods for making knowledge claims.

Some of the earliest studies concentrated on the formal institutions that are the most visible sites of political practice:<sup>11</sup> parliaments, bureaucracies, political parties, unions and businesses. This has been matched in recent decades by the study of other structures of collective action, such as pressure groups and social movements.<sup>12</sup> While the study of institutions first emphasised the way strict rules and laws shaped organisational practices, over time it has come to accommodate more sociological views of how organisations operate, accounting for organisational norms and culture.

Australian political science increasingly recognises that government power is becoming distributed throughout society. In some cases, this has been the result of deliberate choices by politicians and legislatures, such as the outsourcing of previously state-provided services to charities or private companies. In other cases, political scientists recognise that the capacity to influence how state power is realised exists in places that are ‘in between’ formal institutions.

Those who conceive of political power as ‘distributed’ see politics and policy not simply as government activity, but as the more expansive process of ‘governance.’ A governance perspective focuses on the way power is distributed across different networks of social actors and organisations, shaping the nature of the policies that emerge (such as the study of young people’s use of new media to influence politics).<sup>13</sup> Governance considers a range of relationships (involving regulation, economic exchange and collaboration) and often views elected officials as people who are engaged in ‘steering rather than rowing’ to achieve their objectives, and not in exercising top-down power.<sup>14</sup>

The recent National Disability Insurance Scheme (NDIS) is a good example. Originally developed under Labor Prime Minister Julia Gillard (2010–13), it aims to ensure that Australians with significant disabilities receive care aligned with their personal needs. Importantly, the development and implementation of this policy was not something that a federal government could do alone. The financing and provision of these services spans federal, state and territory governments, requiring collaboration and co-funding. This made the policy highly political, involving the influence of the prime minister, her Cabinet, her party and its allies, but also of a grassroots campaign by people with disabilities and their supporters to encourage leaders in the states and territories to sign on to the plan.<sup>15</sup> Rather than establish a centralised bureaucracy to deliver standardised care, an expanded ‘market’ of

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11 Crozier 2001.

12 Boreham 1990.

13 Vromen 2017.

14 Rhodes 2016.

15 Al-Alosi 2016.

commercial and non-profit providers was fostered to compete to provide services.<sup>16</sup> Thus, while key ‘institutions’ were critical in initiating the policy, its implementation sits in the world of politics and governance, with multiple actors influencing and shaping the eventual welfare model, which was crucial to the lives of over 450,000 Australians.

Australia also has a longstanding tradition of study of individual and group political behaviour that is less concerned with the role of institutions and organisations. This ‘behaviouralism’ has asked questions about how individual citizens conduct themselves as political actors (expressing themselves, voting, joining organisations), how people are ‘socialised’ into political knowledge and practices, and how political knowledge and opinion changes over time. Often, this asks: how do people come to know and express their individual and collective interests in the political world? This approach to the discipline has interests in culture, media and the study of public opinion.

The study of Australian politics also has a rich tradition of ‘critical’ analysis. This broad school includes an array of feminist political theorists,<sup>17</sup> Marxist political economists<sup>18</sup> and, more recently, decolonial and indigenising perspectives.<sup>19</sup> These traditions question common assumptions about the political order. Thus, for example, instead of assuming the inevitable existence of the liberal nation-state and market economy, they ask about the historical formation of these structures. Critical scholars are often associated with ‘action research’: not simply analysis, but developing theory with the subjects of the research, with the aim of empowering these communities to change the social and political order. These approaches commonly focus on questions of race, class, gender and intersectionality (where interlocking systems of power affect individuals and communities).

### *Politics and the study of power*

Politics is commonly defined as ‘the science or art of political government.’<sup>20</sup> This definition highlights the importance of politics as the acquisition, use and effects of social *power* across a range of settings. Underlying this simple definition, however, are at least three different ‘meta’ (high level) concepts of power that are employed in understanding Australian politics.

The first perspective conceives politics as a practice that both expresses and explains political conflict and co-ordination as the result of incentive structures that shape the behaviour of individuals and groups. Individuals, like groups, have their own preferences, interests and goals that they pursue. But often they are unable to solve their problems due to barriers to collective behaviour. In this view, human

16 Foster et al. 2016.

17 Pateman 1990; Plumwood 1993; Salleh 2017.

18 Humphreys 2019; Meagher and Goodwin 2015.

19 Harrison et al. 2017; Maddison and Brigg 2011; Motta 2016; Strakosch and Macoun 2012.

20 *Macquarie Dictionary* 2018.



nature tends towards individualistic rational calculation. Power is the ability to explicitly or implicitly shape the behaviour of organisations and groups of people.<sup>21</sup> As such, the prospect of the few dominating the many can only be prevented by broad-scale participation or through contestation between competing elites with different goals and objectives.

This perspectives sees the 'public good' as a by-product of the participation of and competition between many citizens and groups in the political process, and sees political institutions as either sites of conflict (consider the famous nickname of the New South Wales parliament: 'the bear pit') or the enduring outcome of previous battles that provided spoils to the winners.<sup>22</sup> While this perspective can be seen very negatively, it can be argued that, in all its imperfection, competitive politics in open societies 'works' in that it delivers participatory government through which individuals can act to protect their interests from the risk of an authoritarian state.<sup>23</sup>

The second view of politics focuses on the role of groups or collectives engaged in mutual adjustment to act in concert and restrict social conflict, without which human society would amount to little more than a war of 'all against all'.<sup>24</sup> Conflict is not seen as automatically constitutive of politics; rather, agreement and compromise are necessary to achieve any significant objectives and humans are seen as fundamentally social creatures.<sup>25</sup> Within this conception humans are viewed as able to engage, in the right contexts, in truly co-operative forms of decision making to achieve common goals and objectives. This approach tends to assess the extent to which political practices facilitate or impede collaboration and treats poor government performance as stemming from failures of decision making, consensus formation and collaboration.

The third perspective examines how dominant political structures, logics and rationalities determine who has the capacity to control their lives and futures. It historicises and critiques the form of organising politics, sovereignty and political community. In this critical reading, the liberal nation-state and market economy structurally reproduce systematic exclusions along lines of race, gender and class. One key example of this critical reading of politics is the indigenising–decolonising perspective. This perspective challenges taken-for-granted conceptualisations of politics that can devalue, elide and invisibilise Indigenous and colonised peoples' epistemologies, ethics and modes of organising political and social life.

### *Understanding public policy*

These perspectives on politics address debates about human nature and about how political power is organised, acquired, maintained and deployed. Studying politics

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21 Dahl 1957.

22 Machiavelli 2014 [1531].

23 Crick 1992.

24 Hobbes 2014 [1668].

25 Arendt 1958.

without considering the programs and policies of government, however, reduces it to 'sport': calculating winners and losers without ever asking 'What is at stake?' The study of public policy adds an understanding of the outputs of the political process and asks questions about the historical foundations and reproduction of exclusions and inequalities.

Just as we can discern different perspectives on politics, we can also identify different ways of thinking about policy. For some, public policy reflects the distribution of resources in a society. For others, it reflects wider cultural norms that tell us a lot about what a society truly values.

A 'materialistic' view of public policy sees policy as a set of decisions, rules and institutions that allocate benefits (and costs) within society. As with news reporting on the federal budget ('This year's winners and losers!'), policy can be seen as choices about who gets the 'spoils' of political victories. Often policy is about the provision of direct material resources (e.g. industry subsidies), but it can also include less tangible benefits such as favourable laws or regulations. By way of example: the rise of the labour movement at the end of the 19th century saw a corresponding increase in policy designed to redistribute resources towards the working class (via mechanisms like welfare and progressive taxation systems), as well as the first significant industrial relations laws regulating the relationship between employers and employees. From this perspective, policy can be evaluated in instrumental terms (Did the allocation of resources effectively achieve the program goals?), and in terms of power (Who benefits from this policy?).

Alternatively, a 'values' view of public policy is less concerned with accounting for the distribution of public resources and more concerned with the social meaning of policy. Mark Considine highlights the role that the values of voters and officials play in directing government action. For him, 'a public policy is an action which employs governmental authority to commit resources in support of a preferred value'.<sup>26</sup> This recognises that the material aspects of a policy may be less important than its 'symbolic' meaning.

A good example of this view is the heated debate over the implementation of LGBTIQ+<sup>27</sup> education programs in Australian schools. The 'Safe Schools' initiative provided teaching materials to help schools reduce instances of bullying of students who do not identify with heteronormative standards. From a strictly rationally calculating perspective, this program represented an infinitesimally small part of education budgets, yet it became a contentious political issue due to its explicit acceptance of gender and sexuality as non-binary. It became a lightning rod for social conservatives and a point of principle for program advocates, who saw recognition as important in ensuring the physical and psychological wellbeing of LGBTIQ+ young people.<sup>28</sup> While the materiality of the program was small, its

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26 Considine 1994.

27 Lesbian, gay, bisexual, transgender, intersex and queer/questioning.

28 McKinnon, Waitt and Gorman-Murray 2017.

existence represented a strong statement of values as to what type of people were seen as worthy of societal care.

‘Critical’ perspectives look at policy in terms of its impact on extending or remediating systemic power inequalities and exclusions. An example is an indigenising-decolonising perspective, which interrogates core settler-colonial state structures and their underlying logics in economic, social, cultural or public order areas. In doing so, it demonstrates their deeply racialised (as well as gendered and classed) nature and the role of policy in the (re)production of exclusions, dehumanisation and racialised interventions.<sup>29</sup> A second strand of this research focuses on alternative practices, processes and understandings of decision making and sovereignty, demonstrating their survival despite historical and continued attempts at erasure and control, and raising questions about the possibility of thinking differently about sovereignty, authority, political subjectivity and political decision making.<sup>30</sup>

What do Australians think about ‘politics’?

On the surface, it would appear that we know a lot about what the public thinks about politics. Australia’s political journalists are quick to refer to public opinion polls to explain the daily currents of political debate and elite behaviour. Polling has become a near real-time process surveying public attitudes, feeding reports about ‘what the public thinks’ back into political discourse.<sup>31</sup> Political elites are quick to refer to the currents of public opinion to justify their actions (when it suits them) and to downplay polling in favour of ‘true leadership’ (also, when it suits them).

At the most fundamental level, there is considerable uncertainty about whether the ‘average’ Australian knows very much about core aspects of the political system, history and the debates of the day. Rodney Smith has called the average Australian’s knowledge of the political system ‘sketchy’, at best,<sup>32</sup> a problem partially exacerbated by the complexity of our three-level political system.

The Australian Electoral Study, a survey of Australian voters undertaken at each federal election, has found that the public remains comparatively interested in politics, with 77 per cent reporting they have a ‘good deal’ or ‘some’ interest.<sup>33</sup> But the survey also found that voters may have only partial levels of ‘hard facts’ about the Australian political system. Indeed, less than half of voters can answer specific questions about the Constitution and the composition of parliament (see Table 1).

The lack of knowledge with respect to these very specific questions relates to a broader debate about the ‘competence’ of citizens: to what extent can the public identify policy issues that are of significance to them and act collectively to put

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29 Maddison and Brigg 2011; Motta 2016.

30 Harrison et al. 2017

31 Goot 2018.

32 Smith 2001.

33 Cameron and McAllister 2018.

**Table 1 Australian political knowledge, 2016**

|   | <b>Correct</b> | <b>Incorrect</b> | <b>Not sure/<br/>don't know</b> |
|---|----------------|------------------|---------------------------------|
| Australia became a federation in 1901   | 76.5%          | 2.7%             | 20.9%                           |
| There are 75 members of the House of Representatives  | 45.9%          | 22.9%            | 31.2%                           |
| The Constitution can only be changed by the High Court  | 40.4%          | 27.0%            | 32.6%                           |
| The Senate election is based on proportional representation                                       | 49.5%          | 13.3%            | 37.2%                           |
| No-one may stand for federal parliament unless they pay a deposit                                 | 25.1%          | 34.8%            | 40.0%                           |
| The longest time allowed between federal elections for the House of Representatives is four years | 26.5%          | 56.7%            | 16.8%                           |

these on the political agenda (either through voting behaviour or political activities outside of the electoral cycle)? Evidence on this question is mixed and complex, demonstrating that the public is sensitive to economic conditions, and acts accordingly, but can be 'led' by political elites on other issues (e.g. immigration).<sup>34</sup>

Importantly, Australians appear to be increasingly cynical about politics. However, Evans et al. see them as conflicted; many maintain positive views of Australia's democratic system in broad terms but question the integrity of many of its core players (political parties, media and organised interest groups) and the policy outcomes it delivers.<sup>35</sup>

Whether or not greater knowledge about the realities of the Australian political system, its actors and its policy – the type of information contained in this volume – would positively or negatively affect Australians' attitude to politics remains an open and contested question. However, Smith et al. identify a strong normative argument that links improved political knowledge with enhanced political efficacy (efficacy is the sense that you have the power to control your life and make meaningful decisions).<sup>36</sup>

Conversely, the extent to which any representation of Australian politics and policy speaks to those who have been excluded and misrepresented, and whether

<sup>34</sup> Dowding and Martin 2016.

<sup>35</sup> Evans, Halupka and Stoker 2017.

<sup>36</sup> Smith et al. 2015.



it reflects the knowledges and contributions of those on the political and epistemological margins, are of ethical importance to critical political analysts and frameworks. From these perspectives, the validity of political analysis and theory derives from its capacity to be useful to those in movements and communities struggling for social justice, inclusion and decolonisation.

#### About the open textbook

The volume you are reading is a customised textbook created from a collection of chapters on the topic of Australian politics and public policy. This collection was initially created by a team of 60 authors and editors. To ensure quality, each chapter has been subjected to peer review, a process in which chapters are anonymised and evaluated by other scholars who are experts in the field.

The purpose of the project is to:

- enhance the understanding of Australian politics and public policy with an extensive, well-written, and comprehensive contribution to teaching materials in Australia
- provide, with a no-cost option, access to high-quality teaching materials to students of Australian politics
- develop a system for the delivery of bespoke textbooks customisable to the needs of instructors.

#### Accessing more materials from this project

This book is only one small part of a larger collection of available materials. The *Australian Politics and Policy* website ([tiny.cc/australianpolitics](http://tiny.cc/australianpolitics)) allows you to access all the available chapters in the project's database (see Table 2).

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| Section             | Chapters  |
|---------------------|---|
| Political sociology | <p>Gender and sexuality in Australian politics</p> <p>Government–business relations</p> <p>Indigenous politics</p> <p>Multicultural Australia</p> <p>Pressure groups and social movements</p> <p>Religious communities and politics</p> <p>Voter behaviour</p> <p>Young people and politics</p>   |
| Policy making       | <p>Making public policy</p> <p>Communication policy</p> <p>Economic policy</p> <p>Environmental policy</p> <p>Foreign and defence policy</p> <p>Health policy</p> <p>Immigration and multicultural policy</p> <p>‘Law and order’ policy</p> <p>Regional policy</p> <p>Social policy</p> <p>Urban policy</p> <p>Work, employment and industrial relations policy</p> |

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# A short political history of Australia

Marija Taflaga

## Key terms/names

Australian Labor Party, bicameralism, colonialism, Constitution, the Dismissal, Federation, Gough Whitlam, High Court, Indigenous Australians, Julia Gillard, Liberals/Liberal Party of Australia, *Mabo v Queensland (No 2)*, Medicare, National Party of Australia/Country Party, Robert Menzies, self-government, squatters, suffrage, White Australia policy/*Immigration Restriction Act 1901* (Cth)

Non-Indigenous peoples have occupied land in Australia for 230 years, bringing different ways of life and forms of government to those of the Indigenous peoples they displaced. Today, Australia is one of the most multicultural societies in the world, and its politics focuses on securing high living standards for a diverse population. But before the Second World War, Australia was overwhelmingly white and Anglo-Celtic. As a settler society, political conflicts were dominated by disputes over the distribution of natural resources and, later, political power. Politics in the colonial and Federation eras established institutions, rules and norms that continue to shape national government and politics in Australia.

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## From Dreamtime to European settlement

Indigenous people first arrived in Australia over 60,000 years ago. They brought with them customs and law. While Indigenous customary laws varied across tribal groups, there were some common aspects. Customary law was part of the oral tradition and reflected Indigenous peoples' religious beliefs and their connection with the land. These laws were passed down the generations, from elders to children.

Indigenous laws were sets of rules enforced through social norms and sanctions. They included internal and external mechanisms for maintaining order and managing disputes. These laws considered kinship relations and stipulated rights and responsibilities according to individuals' roles within the community. Decision making was often collective and deliberative. Customary law shaped Indigenous lives, from when and how to get married to when and how tribes should go to war. At the time of first contact Indigenous societies were governed by these laws.<sup>1</sup>

However, neither Indigenous claims to land nor their laws were recognised by the British when the First Fleet arrived in 1788. The colony was established on martial lines and was dominated by men, both in the militia and as convicts. London was nine months away by ship. This degree of isolation effectively rendered the governor a dictator.

When New South Wales (NSW) was established, British politics was influenced by 'enlightened' interests that argued (naively) for colonial expansion with minimal violence. Thus, Indigenous peoples were present in early Sydney, and attempts to 'gift' Christian civilisation to Indigenous peoples were simultaneously exercises of good will and coercion. While early governors often acted as a force for restraint, the steady expansion of pastoral interests saw the spread of both sanctioned and unsanctioned violence against the Indigenous population. Indigenous peoples continued to resist the occupation of their lands and disproportionately suffered the consequences of war, massacre and disease.<sup>2</sup>

Politics in NSW was dominated by its governor, the militia and conflicts between free settlers and emancipated convicts over access to land. The problematic links between the militia and government manifested in the Rum Rebellion (1808), after Governor Bligh attempted to break the militia's illicit alcohol trade. In response, London sent Governor Macquarie and replacement troops to restore order. Macquarie (1810–21) perhaps did the most to develop early NSW. He built major public works and introduced the first bank and a currency. Macquarie was also sympathetic to the former convicts (emancipists) and granted them lands, which upset the free settlers, many of whom were also members of the militia. Macquarie's eventual dismissal highlighted London's important role in colonial governance.

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1 Law Reform Commission 1986.

2 Reynolds 1987.

## Self-government and gold

By 1820, European settlers numbered only 33,000. NSW's nascent (male-dominated) civil society generated demands for representation. Naturally, the model for government was based upon the British concept of responsible government and developed in stages. In 1823, an appointed seven-member Legislative Council was created to advise the governor. Seven elected councillors were added in 1828. The Council was expanded in 1842 with more appointed members. In 1850, the British parliament legislated for limited democratic self-government in the Australian colonies.

By contrast, South Australia (SA) was established as a free colony in 1834. Enshrined in its enabling Act were principles of political and religious freedom, reflecting the settlers' determination to develop without convict labour. The settlers used land sales to fund passage for free skilled labourers and guarded against dictatorial government by dividing political rule between the governor and the 'Resident Commissioner'. This experiment quickly broke down, and the SA parliament developed in stages, along similar lines to NSW. However, SA was a beacon of democratic innovation. In its constitution (1856), it adopted universal suffrage for all men (including Indigenous men) and low or no property qualifications to sit in parliament. It continued to innovate, granting propertied women the right to vote in 1861. In a British Empire first, SA legalised trade unions in 1876 and granted all (including Indigenous women) the right to vote and to stand as a candidate for elected office in 1894.

Victoria became a separate colony from NSW in 1851. That same year, large deposits of gold were discovered, sparking a gold rush. Keen to secure a share of this wealth, Victoria introduced a much-hated mining license. Resentment against the licence fee grew on the Ballarat goldfields, resulting in the celebrated 'Eureka Stockade'. Under the Eureka flag, a brief pitched battle was fought between miners, asserting their claimed rights and liberties, and police in December 1854. The result was 22 deaths. Later, Melbourne juries refused to convict the rebels. This popular feeling infused Victoria's self-government debate with a democratic flavour.

However, the most important impact of the discovery of gold was on the development of Victoria itself, tripling its population between 1850 and 1860. By the 1880s, 'Marvellous Melbourne' was Australia's largest city. Gold became one of Australia's key exports (alongside wool and wheat), and both the revenues and the influx of young working-age men expanded the economy and fuelled Australia's first long economic boom, which lasted until the 1890s crash.

## Dividing resources and allotting rights

At the time of self-government, politics in the Australian colonies was shaped by high levels of immigration of English and Scots. These immigrants were steeped in the working-class culture of 'the people's charter' and the early union organisation

of Britain's 'hungry 1840s'. This brought an early form of social-democratic politics and ideas of utilitarianism (a strand of ethical thought emphasising the promotion of the greatest happiness for the greatest number of people) to Australia.

The division of the continent's natural resources was at the heart of colonial politics. These political battles were important for establishing the institutions and principles that Australian democracy would continue to follow.

The British Crown owned all the land and could choose how to distribute it. Australia's natural grasslands precipitated the pastoral industry's rapid expansion and the rise of 'squatters' – illegal occupants of vast grazing estates, who pushed out the frontier well ahead of the colonial surveyors. Squatters rapidly became wealthy and powerful 'wool kings'.

As the numbers of free settlers increased, conflict arose about the distribution of land. The squatters were eager to secure legal rights to their occupied lands. Opposing them were the 'selectors' – free colonists wanting a farming life on a 'selection' of land. Although the following describes NSW, similar events repeated themselves across the colonies. Squatters used their existing clout to shape suffrage provisions in several colonies. Voting rights were based on property ownership, and the squatters successfully locked out ordinary colonist from the upper chambers of colonial legislatures by setting high property qualifications.

In NSW, the squatters' liberal-minded opponents were able to dominate the lower chamber almost from the beginning of self-government. Liberals wanted to break up the 'squattocracy' and release this land to prospective selectors. They petitioned London to extend voting rights (suffrage) to all men paying a £10 per year rent. This was an expensive rent in the UK and would safely exclude the working classes. However, in high-inflation, gold rush Australia, this price was the norm. The result was that the British legislated near-universal male suffrage in the Australian colonies in 1855.<sup>3</sup>

Thus, a wide franchise, a hostile governor and the policy preferences of the London Colonial Office saw the squatters' privileges curtailed and some of their pastoral holdings broken up. Liberal forces were also successful in securing Britain's agreement to end transportation during the 1850s (SA never accepted convicts, while Western Australia [WA] continued taking them until 1868). These changes illustrate the continued influence of Britain in Australia's political life during the 19th century.

Australia's economy was overwhelmingly rurally based, and squatters successfully kept the best lands for themselves. Land given to 'selectors' was too small and unprofitable. The resulting rural poverty saw the rise of bushrangers such as Ned Kelly. In 1891, the Australian Labor Party (ALP) was formed, centring on the mining and shearing industries. That year, it succeeded in winning four seats in SA and 35 seats in NSW. The ALP was the union movement's political wing, providing

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3 Hirst 1988.

parliamentary representation for its working-class base. It was the first labourist party in the world to win power – for a week in Queensland in 1899 and for four months at the federal level in 1904.

Setting the rules of the game: Federation to the world wars

The decades surrounding Federation in 1901 saw Australians willing to engage in creative democratic experimentation. Events and decisions made at this time would shape Australian politics until the 1980s.

#### *The Federation debates*

The push for Federation was the result of changing economic and geopolitical circumstances. The depression of the 1890s – more severe than the Great Depression – incentivised the creation of a single economic market. Another argument was that a nation would be better able to defend the mostly empty continent.

Through two constitutional conventions, debate focused on how to manage so large a land mass while balancing the interests of more and less populous colonies. Heated debates occurred around the exact powers of the proposed Senate, ultimately resolved by granting the Senate near equal powers (except the ability to introduce money bills) to those of the proposed lower house. A bill of rights was debated but not introduced.<sup>4</sup>

The final model drew on the bicameral UK, but with significant (federal) elements adapted from the USA and Switzerland. Narrowly approved on its second attempt, Australia federated in 1901. But the debate excluded working men, the Labor Party, virtually all women and all Indigenous people. Indeed, Indigenous peoples were not counted in the Census until 1967.

#### *Electoral innovation and women's suffrage*

Elections in the 19th century were violent affairs. Winning often depended upon bribery and the copious provision of alcohol. Australia was no different, until it pioneered the adoption of the secret ballot (or 'Australian ballot') and banned alcohol. These interventions transformed elections from wild affairs to safe and dignified ones – socially acceptable events for women to participate in.

SA was a leader on women's suffrage. WA followed suit in 1899. Federation was predicated on accepting existing voting rights in the colonies, and this proved pivotal to granting all white women voting and candidacy rights at federal elections from 1902. Yet women's representation was persistently low. The first woman elected to any Australian parliament was Edith Cowan in WA in 1921. Women

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4 Galligan 1995.

did not enter federal parliament until 1943 (Enid Lyons [Liberal] in the House of Representatives and Dorothy Tangney [ALP] in the Senate).<sup>5</sup> In 2010, Julia Gillard became Australia's first female prime minister.

#### *Solidification of the party system*

At the time of Federation, politics was split between three political forces: the Victorian-based 'Protectionist' liberals, the somewhat mislabelled conservative 'Free Traders' and the working-class ALP. Both the liberal and conservative forces were loose coalitions rather than formal parties. They struggled to compete with the ALP's discipline – the result of 'the pledge', which bound ALP parliamentarians to vote along party lines on pain of expulsion. At the time, politicians were not paid and working-class Labor representatives could be easily induced to switch sides.<sup>6</sup>

At the federal level, three voting blocs produced several short-lived minority parliaments before 1909. This frustrated politicians like Alfred Deakin (a Protectionist and three-time prime minister) who were used to the two-party politics of colonial legislatures. Deakin termed this 'the three cricketing elevens', implying it was ill-suited to Westminster-style politics. Deakin and the Free-Trade/Anti-Socialist leader Joseph Cook chose to 'fuse' their parties to oppose Labor. Deakin rejected Labor on the grounds of its illiberal 'pledge', which offended his belief in individual conscience. The fusion of 1909 has proved long-lasting, as forerunner of the Liberal Party of Australia.<sup>7</sup>

#### *Social laboratory*

In the decade after Federation, Australia was considered a leading social and democratic laboratory. In addition to women's suffrage, Australia was also at the forefront in social policy, including the aged pension, child endowment, the industrial arbitration system and the indexed living wage for male workers. These payments cemented the idea of Australia as the 'working man's paradise', but they also placed women at a disadvantage. The living wage was designed for a man to support a wife and three children in a 'dignified' manner, but this standard justified *legislated* lower wages for women and stymied attempts at parity until 1969.

At Federation, the Australian economy was in the doldrums because of shifting global economic conditions and the devastating Federation drought, which depressed the rural sector.<sup>8</sup> Population growth slowed and politics focused on maintaining high wage levels, which saw the extension of the state into areas of public health and welfare, but also measures to lock out 'cheap' Asian labour.

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5 Sawyer and Simms 1993.

6 Loveday, Martin and Parker 1977.

7 Brett 2003.

8 McLean 2013.

Advocacy for the *Immigration Restriction Act 1901* (Cth) was led by the ALP, but the Act was supported by all parties.<sup>9</sup> It drew on earlier colonial practices, instigated in reaction to the influx of Chinese miners during the gold rushes. Support was underpinned by racist and nationalist sentiment linked to Anglo-Australians' self-identification as subjects of the British Empire and members of the 'British race'. Under the Act, customs officers could apply a 'dictation' language test to screen out racially, and later politically, undesirable people. This system ended plantation-style sugar farming in north Queensland, which depended upon the importation (but often kidnapping and enslavement, known as 'blackbirding') of indentured labour from the Pacific. It also restricted the flow of Asian immigration until the policy was moderated from the mid-1960s and then formally repealed in 1973.

#### *First World War*

When the First World War broke out, Labor Prime Minister Andrew Fisher declared that Australia would support Britain 'to the last man and the last shilling'.<sup>10</sup> Thousands of volunteers joined up to fight for the 'mother country'. However, opponents also mobilised; former suffragists such as Vida Goldstein formed peace movements. As the war continued, conditions on the home front deteriorated, including industrial conflict over low wages and shortages. Those that protested often fell afoul of the punitive *War Precautions Act 1914* (Cth), which saw many activists jailed for public dissent.<sup>11</sup>

Conflict over whether to introduce conscription became protracted, eventually splitting the governing Labor Party. Disagreement within the government about conscription stemmed from religious and ethnic divisions between Protestant Anglo-Saxon Australians desirous of supporting the Empire and Irish Catholic Australians hostile to Britain over the issue of Irish independence. Billy Hughes, a Protestant, led a breakaway group of Labor MPs to join forces with the conservatives, forming the Nationalist Party. Hughes, as prime minister, attempted twice to introduce conscription via referendums in 1916 and 1917. Both were defeated. These bitter campaigns entrenched existing sectarian divisions in Australia between Catholic pro-Labor and Protestant anti-Labor supporters that would persist until the mid-1950s.

Australia was devastated psychologically and economically by the First World War. The nation was disproportionately impacted by the war's effects on British Empire trade – unable to sell its exports or import the manufactured goods it required. Many of the men who died during the war were young and well educated.

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9 Dyrenfurth 2011.

10 Murphy 1981.

11 Wright 2018.

Australia took on loans, on top of an existing heavy debt burden, to finance the war, and this retarded economic recovery into the 1920s.<sup>12</sup>

### *Between the wars*

In the interwar period, Australia turned away from the world, attracting few immigrants and raising tariffs to protect its manufacturing sector. Many Australians were frightened of the political forces unleashed by the war: namely socialism, communism and Irish nationalism (Fenianism). The optimism that characterised the Federation decades was replaced by deep mourning. The Returned Services League became a major force in politics. Their advocacy of solidier settlement schemes often proved disastrous as inexperienced farmers were given marginal farming lands with little support.

These interwar years saw major political developments. First was the creation of new parties on the right: the Country Party (1919; now called the Nationals), the Nationalist Party (1911–31) and the latter's successor, the United Australia Party (UAP) (1931–45). The formation of the Nationalist–Country Coalition in 1922 instigated a century of co-operation between the parties of the right. Second was the introduction of compulsory voting for federal elections in 1924. Third was the High Court's successive rulings in favour of centralising power in the federal government, as cases were brought to clarify constitutional powers.<sup>13</sup>

During the interwar years, Labor endured opposition at the federal level until finally winning government on the eve of the Great Depression. The Scullin Labor government was quickly overwhelmed and, in 1931, the party split over how the government should respond. Labor Cabinet minister Joseph Lyons defected and took up the leadership of the new UAP, winning the 1932 election. The Great Depression was particularly severe in Australia, with unemployment peaking at 32 per cent in 1932. This laid the foundation of a post-Second World War consensus, predicated on the principles of full employment and the 'fair' distribution of wealth.

### *War and reconstruction*

The Second World War ushered in a new political era. To fight the war, the federal government asked the states to *temporarily* withdraw from collecting income tax. The states lost their challenge in the High Court, which ruled that the Commonwealth held priority over income tax. In 1946, the Chifley federal government announced that it would continue 'uniform taxation' in exchange for reimbursing the states for their forgone income tax revenue. These decisions are the origins of contemporary political conflicts in Australia, where the states are responsible for the provision of services such as health, education and transport, but the federal

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<sup>12</sup> McLean 2013.

<sup>13</sup> Galligan 1995.



government has more of the revenue needed to fund them. Although the High Court's decision was reversed in 1957, it proved too difficult to change existing arrangements, despite multiple attempts by state premiers and even prime ministers.

The war was fought on the principle that a new social compact would follow; postwar reconstruction would see a more equal society and a bigger state. The Curtin and Chifley Labor governments attempted to deliver on this promise by continuing the wartime command economy (a government-planned economy) to direct labour into needed public works. Labor attempted to cement this extension of the state's role in the Constitution with the '14 powers referendum' in 1944, which would have enabled the introduction of a European-style welfare state. Like its attempt to nationalise the banks, this referendum was defeated.<sup>14</sup>

In foreign policy, the war remade the geopolitical map, split between the capitalist West and the communist East. Even before the Cold War, Australia had shifted towards the US alliance, as a war-exhausted Britain could no longer guarantee Australia's security. Japan's military aggression during the Second World War had highlighted the vulnerability of a thinly populated Australia. Labor also required more workers to fulfil its postwar reconstruction plans. This provided the impetus to commence large-scale immigration in 1947. Attempts to induce British migrants with assisted passage were not sufficient, and Labor responded by recruiting from among the millions of refugees in Europe. The initial arrivals were carefully managed, selecting only young, blond and mostly male migrants to allay community unease.<sup>15</sup> By 1973, nearly three million migrants, including 170,000 refugees, had immigrated to Australia.<sup>16</sup>

#### After 1945

The long postwar economic boom made Australia more equal; both the Chifley Labor and Menzies Liberal governments broadly implemented policies that reduced relative income inequality and maintained 'full employment'. At this time, federal governments exercised substantial powers to manage the economy. Elected in 1949, Robert Menzies' Liberals favoured a regulated and subsidised private sector. The Liberals took risks on extending federal funding to Catholic schools and opening up trade with Japan, as these had the potential to split the party's own base. Menzies' rejection of the Vernon report in 1965 also signalled that Australia would not increase technocratic economic planning, which dominated practice in Western Europe. Broadly, Liberal governments supported the status quo and Australia's links with Britain.

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14 Macintyre 2015.

15 Persian 2015.

16 Jupp 2002.



Politics at this time was shaped by the threat of communism at home and within Asia. Abroad, Australians fought in Korea (1950–52), Malaysia (1964–66) and Vietnam (1962–72). At home, Menzies failed to ban the Communist Party in a referendum in 1951 but was able to capitalise on the defection of Soviet attachés Vladimir and Evdokia Petrov in 1954, winning the subsequent snap election. Inside the ALP, tensions between communist and anti-communist organisers in the union movement exploded. The ALP's organisational wing operated on a delegate model, with unions accounting for the largest share of delegates. The rival groups fought for a controlling influence over the party and the result was 'the split' in 1955. The split saw a breakaway party of Catholic anti-communists emerge, the Democratic Labor Party (DLP), mostly concentrated in Victoria.<sup>17</sup>

The DLP came to hold the balance of power in the Senate, capitalising on the switch to a proportional voting system in the upper house in 1949. This was the beginning of the end for governments' expectation that they could rely on a majority in the Senate. This shift was also important to the Senate's increasing tendency to utilise its full set of powers.<sup>18</sup> The DLP influenced the outcome of successive elections, advising its supporters to give their second preference to the Liberals rather than the ALP. This helped to keep the Liberals in power at the federal level for 23 years.

#### *The Whitlam government*

During the 1960s, the economic and social foundations of the postwar consensus began to corrode, ushering in the political debates we recognise today. The Whitlam government's (1972–75) slogan 'It's Time' both encapsulated and prefigured political forces arising from the women's and gay liberation, and environmental, ethnic and Indigenous social movements. Whitlam led a chaotic but transformative government, enacting universal health care (Medibank), free university education, multiculturalism and equal pay for equal work, establishing the family court, introducing no-fault divorce and tariff reduction, returning the Wave Hill Station to the Guringdi people and attempting to legalise abortion, to name a few. The pace of change was breakneck and the rate of spending ruinously inflationary.

The Liberal Party, unused to opposition, attacked the legitimacy of the government, using its Senate majority to force it to an early election in 1974. The Liberals continued to press the government, and a year later the now scandal-ridden Whitlam administration was locked in a game of chicken with the Senate over its budget. The 'Dismissal crisis' emerged when Whitlam attempted to break the deadlock by seeking an election from the governor-general, Sir John Kerr. But before Whitlam could ask for a new poll, Kerr sacked him. Despite the outraged crowds – typified by those who witnessed Whitlam's famous quip 'Well may we

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<sup>17</sup> Costar, Love and Strangio 2005.

<sup>18</sup> Taflaga 2018b.

say “God save the Queen”, because nothing will save the Governor-General’ – the Liberals, led by Malcolm Fraser, went on to win the 1975 election by the largest majority in postwar history.<sup>19</sup>

### *Indigenous rights*

Indigenous Australians have persistently advocated for their people since first contact. Indigenous peoples defended their lands by force, petitioned Queen Victoria and government authorities, organised advocacy leagues in the 1920s and undertook freedom rides (a form of protest where Indigenous and white activists travelled around regional NSW to survey and bring to public attention the everyday racial discrimination faced by Indigenous peoples) in the 1960s.<sup>20</sup> In 1967, Australians voted overwhelmingly to remove the prohibition on the federal parliament legislating with respect to Indigenous people and to count Indigenous Australians in the Census. The referendum was not about granting voting rights – Indigenous people could already vote at federal elections if they held the right at the state level.<sup>21</sup>

Indigenous people continued to advocate for land rights and greater autonomy over their lives. Two landmark High Court cases, known as *Mabo*<sup>22</sup> and *Wik*,<sup>23</sup> overturned the doctrine of terra nullius. The latter found that pastoral leases did not extinguish native title claims. These decisions paved the way for Indigenous groups to seek native title over their land. However, the High Court’s decisions also produced a backlash, particularly in regional Australia. The Howard government responded with its ‘Wik 10 Point Plan’, which curbed the scope of the decision and affirmed pastoral leaseholders’ and miners’ existing rights.

### Australia in a globalised world

Liberal Prime Minister Malcolm Fraser represented a transition in Australian politics between the long boom consensus and the new politics of monetarism, deregulation and globalisation. Fraser retained, or could not unwind, most of Whitlam’s reforms,<sup>24</sup> with the notable exception of Medibank, which was privatised. Fraser actively extended and cemented Australia’s commitment to multiculturalism and antiracism, accepting tens of thousands of Vietnamese refugees. While Fraser

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19 Hocking 2012.

20 Curthoys 2002.

21 Attwood and Markus 2007.

22 *Mabo v Queensland (No 2)* [1992] HCA 23 (*Mabo*).

23 *Wik Peoples v State of Queensland and Ors; Thayorre People v State of Queensland and Ors* [1996] HCA 40 (*Wik*).

24 Dowding and Martin 2017.

set Australia on the path towards economic reform, it was the Labor Hawke–Keating government (1983–96) that truly grasped the nettle.

In the 1980s, Labor governments relinquished control over several economic levers (such as the exchange rate) to open the Australian economy to global competition. They also came to a series of ‘Accords’ with the union movement over wages. In exchange, these Labor governments extended the welfare state, introducing the universal health scheme Medicare. Labor navigated a ‘third way’ between the socialism of the postwar left and the neoliberalism of the ‘new right’ in the 1980s. The ALP finally succeeded in winning more than two terms in a row at the federal level, but at a cost. By 1996, many of the party’s left felt that Labor’s socialist credentials had been betrayed.<sup>25</sup>

Labor embraced postmaterial politics, adopting progressive positions on women, the environment, gay rights, Indigenous affairs and multiculturalism. By the 1990s, reform fatigue had set in. John Howard’s Liberals harnessed a community backlash with their 1996 campaign slogan ‘For All of Us’, which rejected the politics of ‘the elites’ in favour of ‘ordinary Australians’. Howard argued for a ‘relaxed and comfortable’ Australia that celebrated the nation’s history and culture. This was the forerunner of today’s ‘culture wars’.<sup>26</sup>

The Howard government (1996–2007) embarked upon major reforms in its early years, introducing a goods and services tax, industrial relations reforms and strict gun control. Two events in 2001 came to dominate the government’s later years. The first was the September 11 terrorist attacks in New York, which led Australia to join the ‘War on Terror’ in Afghanistan and Iraq. The second was the *Tampa* crisis, where the Australian government became involved in a standoff with a cargo ship that had rescued asylum seekers from a sinking vessel. The *Tampa* incident brought to a head a crisis in the immigration detention system, which had been established by the Keating government. The eventual result was the beginning of the offshore detention system. The *Tampa* crisis transformed immigration into a contestable political issue, where previous attempts in the 1980s and 1990s invited strong censure as racist.<sup>27</sup> Today, both major parties are advocates of offshore detention and boat turn-backs (despite the Rudd Labor government’s brief liberalisation).

Finally, the emergence of the environmental movement in the 1970s crystallised into political action and party formation, first in Tasmania in 1972 and later federally in 1992.<sup>28</sup> Global warming was first raised as a political issue in the 1980s. Given Australia’s access to cheap coal and its position as an exporter, the Howard government resisted joining global efforts to combat climate change. The issue has

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25 Bongiorno 2015.

26 Brett 2003.

27 Taflaga 2018a.

28 Jackson 2016.

continued to plague Australian politics, playing a role in the downfall of successive prime ministers on both sides of the aisle since 2007.

## Conclusions

Contemporary Australia's colonial and post-Federation political history begins with the displacement of its Indigenous peoples. The mode of politics reflects, first, the adaption of British, and the development of unique Australian, institutions. These institutions have set the 'rules of the game' and helped Australia to peacefully manage the division of natural and political resources among its non-Indigenous settlers. Second, as Australian society has changed, either through immigration or by accommodating the demands for access to the public sphere by successive groups, it has continued to adapt its institutions in order to cope with new challenges and demands without serious political strife or collapse.

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#### About the author

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# Australian political thought

Nicholas Barry

## Key terms/names

conservatism, labourism, liberalism, nationalism, race, social democracy, socialism, utilitarianism

Ideas are central to politics. Individuals and groups have different ideas about which values are most important, what kind of society we should live in, how the world works and what role the state should play. This is what political scientists often refer to when they use the term ‘ideology’. Ideological disagreements often underpin disagreements over the laws and policies that should be adopted. For this reason, a full understanding of politics and public policy in Australia requires an awareness of the major ideas and ideologies held by Australian citizens, politicians and activists.

In the past, an influential line of thought held that political ideas were relatively unimportant to Australians. James Bryce, for example, noted that ‘[t]he matters which occupy the mind of the nation in all classes are ... its material or economic interests – businesses, wages, employment, the development of the country’s resources. These dominate politics.’<sup>1</sup> This picture of Australian citizens and politicians as atheoretical and practical was also present in a number of other influential early works on Australia.<sup>2</sup> Related views were also expressed in the postwar period, with

Barry, Nicholas (2019). Australian political thought. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Bryce 1921, 244.

2 See, in particular, Hancock 1930.

Loveday claiming that '[p]olitical thought in Australia has never been shaped into coherent and well-established bodies of doctrine which the parties guard, expound and apply'.<sup>3</sup>

A closely related, but more nuanced, view was put forward by Hugh Collins.<sup>4</sup> In an influential essay, he noted that politics everywhere tends to be concerned with the pursuit of interests. What is distinctive about Australia is that interests dominate 'unashamedly with little resort to ideals and ideas to clothe their naked intent'.<sup>5</sup> This is not because Australia is devoid of political ideas, but because a particular doctrine – utilitarianism – has been so influential. Although there are different forms of utilitarianism, it essentially holds that individuals and governments should act so as to promote 'the greatest happiness for the greatest number'. Decades earlier, this view was captured in Hancock's famous claim that 'Australian democracy has come to look upon the State as a vast public utility, whose duty it is to provide the greatest happiness for the greatest number'.<sup>6</sup> In other words, citizens expected the government to adopt policies that would maximise the wellbeing of the population, helping them satisfy their preferences. On Collins' interpretation, utilitarianism thereby helped to legitimise the idea that politics is essentially about the pursuit of interests.

These views of Australian political thought have been challenged by other scholars, who have suggested that they are oversimplifications of Australian political history.<sup>7</sup> Australian politics is not dominated solely by utilitarianism or conflict over material interests, but has been shaped by a range of ideas and ideologies, often resulting from engagement with and adaptation of the ideologies that have shaped politics in other parts of the world, particularly Europe and North America. Although there is not space in this chapter to provide an exhaustive overview, the chapter focuses on some of the dominant ideas and ideologies that have animated Australian politics, considering, in turn, conservatism, liberalism, socialism, social democracy and labourism. The sixth section of the chapter concludes by highlighting some of the exclusionary ideas about nationalism, race, gender and the environment that cut across many of the ideologies discussed in this chapter, and the ways activists and political thinkers have sought to combat these ideas by challenging and refashioning these ideologies.

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3 Loveday 1975, 2.

4 Collins 1985, 155.

5 Collins 1985, 155.

6 Hancock 1930, 72.

7 See, for example, Clark 1980 [1956]; Edwards 2012; Hirst 2001; Rowse 1978; Sawyer 2003; Walter 2010.

## Conservatism

Conservatism has been a major ideological influence in Australian politics. The core of conservatism is maintaining past traditions while accommodating small but gradual social change. In general, conservatives have ‘an essentially pessimistic view of human nature.’<sup>8</sup> They tend to focus on the limits of human reason, given the complexity of the world and the impact of ‘non-rational appetites.’<sup>9</sup> This means they believe that human beings need stability, hierarchy and tradition to thrive. They are sceptical about the desirability of rapid social change, believing instead that there is an accumulated wisdom in traditional customs and social institutions and that these beliefs and practices should generally be preserved.<sup>10</sup> The most famous expression of this view was Edmund Burke’s critique of the French Revolution, *Reflections on the revolution in France*, which warned of the dangers of radical social and political change in the pursuit of abstract universal ideals.<sup>11</sup> Conservatives also tend to emphasise the importance of religion and religious authorities in guiding individual behaviour. These features of conservatism all have important implications for the role of the state, and they mean that the state may be justified in passing laws that restrict individual freedom in order to preserve traditional beliefs and practices.

British conservatism, which has been a particularly important influence on Australian conservatism, was traditionally associated with a belief in the importance of maintaining the power and prestige of the monarchy and the aristocracy. Although they generally supported representative government, in the 18th century and part of the 19th century there was also conservative hostility to expanding the franchise to working-class men.<sup>12</sup> Many British conservatives supported a role for the parliament in restraining the power of the Crown, but this was not because of a commitment to political equality so much as a commitment to a parliament that was made up of an aristocracy whose rights would be protected against the Crown.<sup>13</sup> Conservative thinkers such as Burke believed that society would function best if it were ruled by a ‘national aristocracy’ of talented leaders, which, for the most part, overlapped with the hereditary aristocracy, although there should be opportunities for talented outsiders to join its ranks.<sup>14</sup> Although modern conservatives support democracy, some continue to draw attention to its drawbacks, including the tendency to neglect the long-term interests of the community, giving priority to ‘the living and their immediate interests over past and future generations.’<sup>15</sup>

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8 Heywood 2004, 22–3.

9 Heywood 2004, 22.

10 Ball and Dagger 2004, 88–9. See also Edwards 2013, 34–5.

11 Ryan 2012b, 619–34.

12 Ball and Dagger 2004, 98–9.

13 Walter 2010, 56–7.

14 Ball and Dagger 2004, 94–5; Ryan 2012b, 629.

15 Scruton 2001, 45–8, quotation at 47.



Another strand of conservatism is concerned primarily with preserving the cultural traditions of the community. In Britain in the early 1800s, this 'cultural conservatism' was originally concerned with protecting the traditional English way of life against the Industrial Revolution and the rise of materialism, which many believed was undermining traditional cultural practices and loyalties.<sup>16</sup> Cultural issues, including the effect of free market capitalism on human relations, continue to concern some conservatives.<sup>17</sup> But greater concerns, particularly among religious conservatives in the USA, have been the movement away from the traditional heteronormative family structure, challenges to traditional gender roles, a more permissive attitude towards sex and the rise of the welfare state, all of which are perceived to have led to an erosion of personal responsibility.<sup>18</sup>

Transplanting conservatism to the Australian context inevitably involves some variations from the British model because of key differences between Britain and Australia. Most notably, in Australia, there were no existing *European* political institutions to preserve, prior to the British invasion (the customs and traditions of First Nations people were not understood and were violently opposed), and there was no equivalent to an aristocratic class with landed estates. Nonetheless, in the colonial period, conservative ideas were often espoused by many members of the military corps and 'free settlers,' who often viewed themselves as more virtuous than members of the colonies who had been transported as convicts as a result of crimes committed in the UK. This attitude was reflected in proposals to establish an Australian aristocratic class, drawing on this group of 'respectable' settlers who would come to wield power and influence in the colonies:

there is no time to be lost, in establishing a body of really respectable Settlers – Men of real Capital, not needy adventurers. They should have Estates of at least 10,000 acres, with reserves contiguous of equal extent. Such a body of Proprietors would in a few years become wealthy and with the support of Government powerful as an Aristocracy.<sup>19</sup>

Later, as the push for democracy gained momentum, some conservative opponents drew explicitly on the French Revolution to warn of the dangers of democracy and the rights of man:

When the meeting Wednesday last was told of the 'indefeasible rights of man,' a doctrine was put forth equally dangerous, untrue and revolutionary; a doctrine which if pushed to its practical consequences would unhinge the fabric of social life, subvert the foundations of religion, order and morality, and substitute for the

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16 Ball and Dagger 2004, 98.

17 For example, Scruton 2001.

18 Ball and Dagger 2004, 107–10.

19 John Macarthur, cited in Walter 2010, 40–1.

pure flame of rational freedom, the strange and unhallowed fires of a relentless and licentious anarchy ... The terrible example of the French Revolution, the example of that nation which 'got drunk with blood to vomit crime', should teach all men the dangers of these monstrous doctrines.<sup>20</sup>

These quotations starkly illustrate the commitment to a society structured around hierarchy rather than equality and the suspicion of democracy and inalienable rights.

Nonetheless, it is important to remember that conservatives during the colonial period did support the need for checks on the power of the unelected governors who ruled the colonies. In fact, John Macarthur led the 'Rum Rebellion', which saw the overthrow of a 'tyrant', New South Wales Governor Bligh, in 1809.<sup>21</sup> Most conservatives came to support the principle of responsible government, but many remained sceptical of democracy, supporting a number of measures that were designed to limit the democratic character of the system. Property restrictions on the franchise were one example of this – they were designed to restrict voting rights to those with property. There was also another proposal to establish an Australian nobility – derided as a 'bunyip aristocracy' by its critics – who would be the only candidates eligible to run for election to the upper house.<sup>22</sup>

Some have also argued that a kind of Burkean conservatism shaped the attitudes of many of the delegates attending the 1890s Federation conventions that designed Australia's Constitution.<sup>23</sup> Although many of the delegates may have rejected the label of 'conservative', the debates in which they engaged demonstrated 'a strong ideological predisposition ... to see that institutions should evolve out of existing arrangements rather than being manufactured or constructed, a crucial Burkean argument'.<sup>24</sup> Broadly speaking, this was associated with the idea that Australia's constitutional arrangements should be closely aligned to the British model, which was believed to be characterised by flexibility rather than rigidity, but with pragmatic institutional adaptations to reflect Australian conditions.

Conservatism has continued to be a significant ideological force in Australian politics since Federation. In parliament, the Liberal Party and its predecessors have often been strongly influenced by conservative ideas (although, as its name suggests, liberalism is also an ideological influence on the party, as will be discussed in more detail in the next section). Liberal Prime Minister John Howard was a staunch monarchist and drew on the ideas of Edmund Burke to argue against Australia becoming a republic:

I take an unashamedly Burkean view. I do not support change because I am unconvinced that a better system can be delivered ... Changing the Constitution

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20 Editorial, *Australian*, 22 February 1842, cited in Walter 2010, 47.

21 Walter 2010, 40.

22 Walter 2010, 48–9.

23 See, for example, Chavura and Melleuish 2015.

24 Chavura and Melleuish 2015, 516.

in such a fundamental way is not a play-thing of the ordinary cut-and-thrust of Australian politics. We are dealing here with institutions affecting the long-term political health and stability of the nation.<sup>25</sup>

More generally, the desire to preserve political and cultural ties to Britain has been one of the abiding features of Australian conservatism.<sup>26</sup> For example, one of the most controversial decisions made by Tony Abbott during his prime ministership was the decision to introduce knighthoods in Australia and to award one of these knighthoods to Prince Philip.<sup>27</sup> This decision reflected a conservative desire to reintroduce an honours system based on the British model; a belief in the value of hierarchy, apparent in the desire to establish a system of titles; and a conservative attachment to the Crown, seen in bestowing the award on a member of the royal family.

Conservative ideas have also figured prominently in debates over a range of social issues and policies. For example, until the final decades of the 20th century, Australia had a particularly strict censorship regime that aimed to place limits on the literature and films that citizens were able to access to protect 'Anglo-Saxon standards'.<sup>28</sup> The conservative viewpoint also came through strongly in debates over the introduction of no-fault divorce and the decriminalisation of homosexuality. More recently, the major opposition to marriage equality came from conservative politicians and religious organisations. For example, former Prime Minister Tony Abbott advocated a 'no' vote in the 2017 marriage equality plebiscite on the grounds that it was '[t]he best way of standing up for traditional values, the best way of saying you don't like the direction our country is heading in right now'.<sup>29</sup> Since the late 1990s, conservative ideas have also been central to the 'culture wars', with conservatives opposing a variety of trends that they believe are undermining the dominance of Christian values in Australia, particularly multiculturalism, cultural engagement with Asia, and more critical accounts of Australian history that draw attention to the violence of colonialism and its ongoing effects. The idea that it is important to preserve Christian values in Australia was reflected in former Liberal-National Coalition Prime Minister John Howard's comment that 'the life and example [of Jesus Christ] has given us a value system which remains the greatest force for good in our community'.<sup>30</sup>

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25 Howard, cited in Irving 2004, 95.

26 Melleuish 2015.

27 Safi 2015.

28 Moore, cited in Errington and Miragliotta 2011, 121.

29 Abbott, cited in Karp 2017.

30 Howard, cited in Johnson 2007, 199.

## Liberalism

Liberal ideas have also been highly influential in Australia. In fact, liberalism has sometimes been viewed as the dominant ideology in Australian politics.<sup>31</sup> There are major differences between varieties of liberalism, but they are all committed 'to individualism, a belief in the supreme importance of the human individual, implying strong support for individual freedom'.<sup>32</sup> Linked to this, liberals are opposed to the ideas of hereditary aristocracy and natural hierarchy that have often been associated with conservatism. Rather, the liberal view is that citizens have an equal moral status, meaning they are entitled to an equal set of rights.

A variety of implications flow from this core idea. First, liberals are opposed to absolutism.<sup>33</sup> The authority of the state – its right to exercise coercive power – is not natural or the result of religious decree but only justified to the extent that it has beneficial consequences for the lives of citizens. This idea, which most famously found expression in John Locke's *Two treatises of government* (1689), means that state power is only justified to the extent that it 'enable[s] the society to achieve those limited goals that a political order enables us to achieve – the security of life, property and the pursuit of happiness'.<sup>34</sup> In the liberal tradition, this view has often been explained with reference to the idea that there is a (hypothetical) social contract between citizens and the state. Although the idea of the social contract has taken a variety of forms, it is usually understood to be a thought experiment that begins by imagining what life would be like in the state of nature – a world without the state apparatus. A flourishing and orderly society is assumed not to be possible in the state of nature; hence liberals believe that individuals would agree to give up their absolute freedom in the state of nature and establish the institution of government (what we would now refer to as the state). This establishes the basis for citizens' agreement to respect the state's authority. In return, the state is obliged to maintain order and protect citizens. However, under liberal forms of the social contract, there are limits to the state's authority: it must respect the core rights of citizens, and, if it fails to do so, it loses its legitimacy and revolution may be justified.<sup>35</sup>

Linked to this is another core liberal idea: opposition to theocracy and support for the concept of freedom of conscience.<sup>36</sup> Throughout history, religious and political authority have often been closely entwined, and it has been considered legitimate for the state to force individuals to follow particular religious beliefs and practices. Liberals are opposed to this idea, drawing a distinction between church and state and emphasising the importance of freedom of conscience.<sup>37</sup> This is often

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31 For example, Rowse 1978.

32 Heywood 2004, 29.

33 Ryan 2012a, 28–30.

34 Ryan 2012a, 28–9.

35 Ryan 2012b, 488–91.

36 Ryan 2012a, 30–3.

37 Ryan 2012a, 31.

linked to the concept of toleration, which holds that one should not interfere ‘with beliefs, actions or practices that one considers to be wrong but still “tolerable” such that they should not be prohibited or constrained’.<sup>38</sup> For example, the majority of people in a community might regard a particular individual’s religious beliefs as wrong and offensive. However, that individual should be free to practise their religion without interference from the majority.

Although early liberals such as Locke defended relatively limited notions of toleration by contemporary standards, subsequent liberal thinkers expanded the scope of this principle. Most famously, in *On liberty* (1859), John Stuart Mill went beyond freedom of religion and freedom of conscience, arguing for a more expansive understanding of freedom of speech and freedom of action that was encapsulated by the ‘harm principle’. This principle held that ‘[t]he only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others’.<sup>39</sup> In the 20th century, liberals further developed these ideas to argue against a raft of laws that were designed to enforce customary morality in areas such as sexuality and censorship.<sup>40</sup> As a result, contemporary liberals generally think that a much wider range of practices should be tolerated.

Although most liberals endorse human rights and individual freedom, there is great diversity in how different liberals understand these concepts. One of the major distinctions is between classical liberalism and social liberalism.<sup>41</sup> Classical liberalism is generally associated with a belief in rights to life, liberty and property. There should also be minimal government intervention in the economy, with the emphasis instead on freeing up the market forces of supply and demand. This means that the state should, for the most part, let producers and consumers make their own economic decisions without the restrictions associated with heavy government regulation, taxation, tariffs or other forms of interference. Key liberal thinkers such as John Locke and Adam Smith are often viewed as falling within the classical liberal tradition.<sup>42</sup>

In the 19th century, a different form of liberalism began to emerge, described variously as ‘social liberalism’, ‘new liberalism’ or ‘modern liberalism’.<sup>43</sup> Associated with the work of J.S. Mill, L.T. Hobhouse and T.H. Green, social liberals drew attention to the problem of poverty and argued that the state was justified in assuming a more expansive role in the economy, intervening to provide more benefits and services for citizens to help ensure that they are able to obtain the basic necessities of life and to bring about equality of opportunity. This was justified with reference to the liberal commitment to individualism and individual freedom. The idea was that for individual freedom to be meaningful, individuals needed more

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38 Forst 2017.

39 Mill 1978 [1859], 9.

40 For example, Hart 1963; Dworkin 1977.

41 Heywood 2004, 29–30; Ryan 2012a, 23–6; Sawyer 2003, 9–30.

42 Ryan 2012a, 24.

43 Edwards 2013, 42–6; Heywood 2004, 29–30; Ryan 2012a, 25–6; Sawyer 2003, 9–30.

than the absence of external interference with their actions; they needed a certain level of material wellbeing to give them autonomy (i.e. control over their lives) and the means to fully develop their capacities. This form of freedom has been described as positive freedom, in contrast to the negative freedom (i.e. freedom as non-interference) that was associated with classical liberalism,<sup>44</sup> and it provided a justification for the emergence of the welfare state.

In the second half of the 20th century, another strand of liberalism emerged that became known as ‘neoclassical liberalism’ (or ‘neoliberalism’). Linked to the work of F.A. Hayek and Milton Friedman, among others, this approach argues against the growing size of the welfare state on the grounds that it is undermining self-reliance and individual responsibility, as well as distorting the market.<sup>45</sup> Rejecting the positive account of freedom associated with social liberalism, neoliberals argue that liberals should return to their classical roots, advocating minimal government and the free market.

These strands of liberalism have all had – and continue to have – a major impact on Australian politics. During the colonial era, there was support for liberal ideas, particularly in urban areas and among emancipists. Liberals often worked alongside radicals, including those involved in the Chartist movement, to oppose conservative proposals for the ‘bunyip aristocracy’ (see above) and push democratisation through measures such as universal manhood suffrage.<sup>46</sup> Liberal ideas of equal citizenship were drawn upon in these debates. For example, as Daniel Deniehy put it, ‘a just law no more recognises the supremacy of a class than it does the predominance of a creed ... [T]he elective principle is the only basis upon which sound government could be built.’<sup>47</sup>

The division between different types of liberalism was also important in the development of the Australian party system in the late 19th and early 20th centuries. The two largest ‘parties’ (or perhaps more accurately, ‘groupings’, given their relatively loose organisational structures) in the first federal parliament were the Protectionists and the Free Traders. As their name suggests, the Free Traders, led by George Reid, were strongly influenced by the free market ideas of classical liberalism.<sup>48</sup> Reid associated free market liberalism with the idea of individual freedom. He thought the free market was essential to economic and social progress because it encouraged competition: ‘the great destiny of humanity lies in allowing the genius for competition, for striving, for excelling, for acquiring, to reach its uttermost latitude consistent with the due rights of others.’<sup>49</sup>

In contrast, the Protectionists held that the federal government should put tariffs on goods being imported into Australia in order to protect local industries,

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44 Berlin 1969.

45 Friedman and Friedman 1980; Hayek 2001 [1944]; Heywood 2004, 211–2.

46 Walter 2010, 44–54.

47 Cited in Walter 2010, 45.

48 Edwards 2013, 63–4; Walter 2010, 24, 97–9.

49 Reid, cited in Walter 2010, 98.

giving them an advantage over international competitors. This went alongside support for a range of other forms of government intervention in the economy that were designed to prevent poverty and improve the lives of citizens.<sup>50</sup> As the most influential figure in the Protectionists, Alfred Deakin, put it:

Liberalism would now inculcate a new teaching with regard to the poorest in the community, that all should have what was their due. By fixing a minimum rate of wages and wise factory legislation, wealth would be prevented from taking unfair advantage of the needy, and the latter would be saved from living wretched and imperfect lives.<sup>51</sup>

Ultimately, the position advocated by the Protectionists won out. With the support of the Australian Labor Party (ALP), tariffs were introduced, along with a range of other policies, including compulsory wage arbitration, which ultimately meant that workers' wages were relatively high compared to other countries. These policies (along with other measures such as the White Australia policy, discussed below) later became known as 'the Australian Settlement' and remained in place for much of the 20th century.<sup>52</sup> There were still major disagreements between political actors over the extent of government intervention in the economy, and in the postwar period some critics argued that the Australian welfare state was relatively underdeveloped, having fallen behind other countries. Nonetheless, the broadly interventionist approach associated with Deakin's social liberalism had become institutionalised, going on 'to dominate Australian society and politics for the first 70 years after Federation'.<sup>53</sup>

By the 1970s, this approach came under challenge as neoliberal ideas became increasingly influential in Australia. A variety of think tanks argued that the welfare state had become too large and that there was a need to reduce government intervention in the economy through tariff cuts, financial deregulation, industrial relations deregulation, tax cuts and privatisation.<sup>54</sup> The Australian economy was perceived to be underperforming as it faced problems with stagflation (the combination of stagnant economic growth and high inflation). The interventionist economic ideas embedded in the existing framework, reflecting social liberalism, were seen to have failed, and a broadly neoliberal approach was believed to offer the solution.<sup>55</sup> These ideas did not fully reshape public policy in Australia until

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50 Edwards 2013, 68–9.

51 Deakin, cited in Walter 2010, 100.

52 Kelly 1992. Although the idea of 'the Australian Settlement' has been highly influential in both academic and popular discussions of Australian politics and public policy, the existence of such a settlement, and Kelly's presentation of its content, has also been challenged. See, for example, Stokes 2004.

53 Cook 1999, 180.

54 Bell 1993; Pusey 1991.

55 Painter 1996.



the Hawke–Keating Labor government held office (1983–96), bringing in a range of policies that were heavily influenced by neoliberal ideas. It moved to phase out tariffs, open the economy up to market forces by deregulating the financial system and privatise major government assets. During this period, the Liberal Party, which was in opposition, was racked by internal division between social liberals (known as ‘the wets’) and neoliberals (known as ‘the dries’) over the ideological direction of the party. Ultimately, the dries won out on economic questions;<sup>56</sup> the vast majority of Liberal Party MPs now subscribe to a broadly neoliberal approach to the economy.

Beyond the economy, liberal ideas have also been important in a range of other domains. In particular, a number of the major social reforms that occurred in Australia in the postwar period, including the introduction of no-fault divorce, the decriminalisation of homosexuality and a loosening of the highly restrictive censorship regime, were influenced by Mill’s ideas about individual freedom. The political system has also been shaped by liberal ideas about limited government, with a variety of mechanisms – including an entrenched Constitution, judicial review, strong bicameralism and federalism – in place to disperse the government’s power and reduce the risk that it will infringe citizens’ rights.

#### Socialism and social democracy

Socialist ideas have also been important in Australia. Socialism is a particularly difficult ideology to define because of the many different types of socialism that exist; nonetheless, most accounts of socialism reflect a commitment to principles of egalitarianism and community.<sup>57</sup> The socialist commitment to egalitarianism involves a more radical understanding of equality than the idea of equal citizenship or equality before the law, requiring a higher degree of equality in the standard of living individuals enjoy (going as far as equality of outcome on some accounts). The commitment to community (or solidarity) reflects the idea ‘that people care about, and, where necessary and possible, care for, one another’.<sup>58</sup> As both these principles suggest, a socialist society is supposed to lack the social division and competition that tends to characterise life in a liberal capitalist society.

Despite the importance of egalitarianism and community in socialist thought, the most influential socialist thinker, Karl Marx, did not explicitly draw on these ideas in his mature work. Instead, Marx put forward a ‘scientific’ account of socialism based on the idea that politics and history are driven by the conflict between different classes, with this conflict in turn reflecting the nature of the economy and its level of technological development. In a capitalist economy, the central conflict is between the bourgeoisie (the capitalist, property-owning class)

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<sup>56</sup> Brett 2003.

<sup>57</sup> Cohen 2009.

<sup>58</sup> Cohen 2009, 34–5.



and the proletariat (the working class who are forced to sell their labour to survive because they do not own property). In contrast to the positive view of the market associated with classical liberalism, which tends to view workers as free and equal in a capitalist society, Marx argued that the proletariat are, in reality, exploited by the bourgeoisie because they are not paid the full value of their labour.<sup>59</sup> This leads to the impoverishment of the working class. Over time, wealth will become increasingly concentrated and the proletariat will increase in size. This ultimately makes it possible for the proletariat to take control of the state and overthrow capitalism.<sup>60</sup> In its place, they will institute a transitory socialist stage, and ultimately communism, which marks the final stage in human history. Marx did not provide a detailed account of what communism would entail, but it would involve the abolition of private property and freedom from exploitative market relations and wage labour. Society would operate on the principle of 'from each according to his ability, to each according to his needs.'<sup>61</sup> Marx believed that this account of history was 'scientific' and that communism was inevitable, in contrast to the many alternative, ethically driven accounts of socialism, which he derided as 'utopian'. What unites Marx's account of socialism with these 'utopian' variants is a shared opposition to the dehumanising effects of free market economies on human beings and support for 'the idea of production for *social* purposes.'<sup>62</sup>

Socialists have also disagreed over how the transition to socialism is likely to occur. Revolutionary socialists believed that a revolutionary takeover of the state was necessary to overthrow the bourgeoisie. Other socialists believed that reform could occur through democratic means if democratic socialist or social-democratic political parties could contest elections, win government and then use the power of the state to institute socialism. Although the term 'social democracy' was originally used to refer to political parties advocating the democratic route to socialism, over time it has come to be associated with a much less radical approach. Instead of winning government to overturn capitalism and bring about full-blown socialism, social democracy now generally means a capitalist economy with a strong welfare state in place that provides a generous level of benefits and services to citizens (such as unemployment benefits and universal health care), thereby ensuring a high level of social protection for workers (and others), a higher degree of equality of opportunity and a lower level of inequality in income and wealth. In other words, 'it stands for a balance between the market and the state, a balance between the individual and the community.'<sup>63</sup>

Both socialism and social democracy have been longstanding influences in Australian politics. In the late 19th century, key socialist works by Marx and Engels

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59 Ryan 2012b, 786–8.

60 Cohen 2000.

61 Marx 1978 [1872], 531.

62 Ryan 2012b, 883.

63 Heywood 2004, 308.

and by 'utopian' socialists such as Edward Bellamy, William Morris and others were being read by both workers and the urban intelligentsia.<sup>64</sup> There were also reading groups to discuss Marx's *Capital*, and socialist newspapers and journals. This climate contributed to the development of the ALP in the 1890s, although the relationship between the ALP and socialism is complicated and controversial. Key figures within the Labor Party certainly endorsed socialist ideas and used the term, while making clear that it should be achieved through electoral victory and gradual reform rather than revolution. As Labor MP (and later prime minister) Billy Hughes said in 1910:

The belief that socialism can be achieved by any coup ... can only be entertained by those who fail utterly to understand not only what Socialism is, but what those factors which make for change are ... Socialism will replace individualism because it is fitter to survive in the new environment.<sup>65</sup>

This comment reflects the commitment to the electoral route to socialism and the sense that history was on the side of socialism. However, the kind of socialism that most figures within the Labor Party endorsed fell short of the Marxist ideal. This is reflected in the qualified nature of the Socialist Objective the Labor Party adopted as part of its platform in 1921, which committed the party to 'the socialisation of industry, production, distribution and exchange', but not if this property was 'utilised by its owner in a socially useful manner'.<sup>66</sup> Labor's commitment to socialism was perhaps best seen in its support for government ownership, at least until the 1970s and 1980s, but this fell well short of major government control of all key industries. Often Labor's policies in office seemed to be closer to the goals of social democracy in its more moderate form, which focused on building the welfare state to provide greater security for citizens and to reduce levels of inequality. These more moderate social-democratic objectives overlap to a significant extent with social liberalism, so it is not surprising that Labor was able to work effectively with the Protectionists in the early years after Federation to put in place core elements of the Australian Settlement, including wage arbitration.

Socialist, particularly Marxist, ideas have also had a powerful influence on political thinkers and organisations outside parliament. The most obvious example was the Communist Party of Australia; however, there are other groups, such as the Socialist Workers Party and more radical trade unions, that have also had an important presence as socialist activists. Socialist writers and academics have a long history in Australian intellectual life and have often been influential critics of the policies and ideas put forth by Australia's major political parties. One of the recurring criticisms in this literature has been of the Labor Party for remaining

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<sup>64</sup> Water 2010, 70–6.

<sup>65</sup> Cited in Walter 2010, 108.

<sup>66</sup> Cited in Bramble and Kuhn 2011, 43. See also Dyrenfurth and Bongiorno 2011, 68–9.

committed to capitalism and adopting policies that benefit businesses more than the working class.<sup>67</sup>

#### Labourism

Lastly, it is important to acknowledge another distinct – and perhaps distinctively Australian – ideological influence on Australian politics. This is the ideology of ‘labourism’, which ‘in its traditional guise, sought a Labor government charged with the duty of managing the economy for the benefit of wage earners.’<sup>68</sup> Labourism does not draw its inspiration from socialist ideas, even in the watered-down way that modern social democracy does. It is broadly supportive of a market economy and electorally pragmatic, focusing on making sure that Labor governments are elected and that they are able to bring in policies that are in the interests of the working class, ‘making the market work more efficiently and fairly.’<sup>69</sup> Up until the late 1960s, this meant support for ‘industry protection, restrictive immigration policy, and compulsory arbitration.’<sup>70</sup> Labourism also differed from social democracy in supporting a smaller welfare state, emphasising targeted and means-tested forms of welfare support rather than the universal forms of social provision that are often associated with social democracy. Labourism has been a major influence on the ALP throughout its history, and although it has moved away from many of the traditional labourist policies in recent decades, an emphasis on electoral pragmatism, a broadly supportive attitude towards a market economy and support for targeting and means-testing welfare payments remain important to contemporary Labor.

#### Nationalism and exclusion

Australian politics has also been influenced by a number of other ideas that cut across and interact with many of the ideologies discussed above. Foremost among these is nationalism. A nation is an ‘imagined community’ into which one is born,<sup>71</sup> and often those who belong to such a community are believed to share certain characteristics. Nationalism is the idea that ‘people who share a common birth – who belong to the same nation – should also share citizenship in the same political unit, or state.’<sup>72</sup> The development of Australian nationalism is generally traced to the second half of the 19th century. It was associated with a growing sense that there was a distinctive Australian identity characterised by egalitarianism, mateship and

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67 For a recent example, see Bramble and Kuhn 2011.

68 Manning 1992, 14.

69 Manning 1992, 14.

70 Manning 1992, 14.

71 Anderson 1983.

72 Ball and Dagger 2004, 14.

distrust of authority.<sup>73</sup> This sense of nationalism was linked to the growing desire for greater independence from Britain and to the ‘progressive’ policy measures associated with the Australian Settlement, which were supported by social liberals and the labour movement, particularly labour market regulation.

However, the egalitarianism and mateship associated with Australian nationalism for the most part applied to white men. Australian national identity embodied ‘a specific model of masculinity – the Lone Hand or Bushman’ – that excluded women.<sup>74</sup> First Nations people were also excluded, being denied the formal rights and status associated with equal citizenship until well into the 20th century, and migration was restricted to ‘white’ races through the White Australia policy. The latter policy was a core part of the Australian Settlement, enjoying support across the mainstream ideological spectrum. Speaking on the *Immigration Restriction Bill 1901* (Cth), which introduced the policy, Alfred Deakin famously stated that ‘[t]he unity of Australia is nothing if it does not imply a united race.’<sup>75</sup> The 1905 federal Labor Platform called for ‘[t]he cultivation of an Australian sentiment based on the maintenance of racial purity.’<sup>76</sup> Thus, although nationalism was linked to relatively progressive policies in some areas, it was also infused with both sexist and racist ideas.

It is important to emphasise that racism predated the emergence of Australian nationalism. In fact, it has been at the heart of Australian politics since 1788. Britain colonised Australia without the permission or authorisation of the First Nations people, who had occupied the land for tens of thousands of years and whose own ways of life and systems of government were violently displaced. One of the ideas underpinning this colonisation and violence was racial hierarchy – the idea that some races are inherently superior to others.<sup>77</sup> Indigenous peoples were treated and depicted in dehumanising ways by the colonists, and the idea that they were the ‘lowest race in the scale of humanity’ appears to have been very influential.<sup>78</sup> In the second half of the 19th century, Social Darwinism emerged as the dominant way of thinking about race, linking racial hierarchy to the idea that there was a constant conflict between races and that ‘the fittest and the best’ would ultimately survive, while the others would die out.<sup>79</sup> The legacy of these ideas was policies of violence and oppression towards First Nations people, and assimilation, which assumed that First Nations cultures would eventually die out. These ideas also shaped the development of Australian nationalism. As Marilyn Lake has put it, ‘The project of progressive reform was imbued with settler colonialism’s “regime of race”, which informed the ascendant politics of “whiteness”.’<sup>80</sup>

73 Brett 2003, 203; Ward 1958.

74 Lake 1997, 42.

75 Deakin, cited in Brett 2017, 265.

76 Dyrenfurth and Bongiorno 2011, 43.

77 Reynolds 1987, 110–1.

78 Byrne, cited in Reynolds 1987, 110–1, quotation at 110.

79 Reynolds 1987, 116, 119.

80 Lake 2019, 5 (references suppressed).

The dominance of sexism and racism in Australian political thought was challenged by women, First Nations people and people of colour. Key thinkers challenged their exclusion from accounts of Australian national identity and called on 'progressive' thinkers to apply their ideas more consistently. For example, suffragists such as Rose Scott appealed to Australian patriotism to argue that the right to vote should be extended to women,<sup>81</sup> while later feminist activists drew on the 'enabling state of social liberalism' in their fight for gender equality.<sup>82</sup> First Nations thinkers have also drawn on social liberal ideas, calling for equality and freedom to be extended to all people. An early example of this was the Australian Aboriginal Progressive Association, which formed in 1924 to fight for equal citizenship for First Nations people.<sup>83</sup> These ideas played a role in helping achieve equal citizenship (at least in a formal sense) for women and First Nations people and an end to a racially discriminatory immigration policy. However, there are also significant and ongoing disagreements among these groups over political ideas. In particular, many thinkers have argued that there is a need to move beyond a liberal framework to achieve gender equality for women<sup>84</sup> and justice for First Nations people.<sup>85</sup> It is also clear that, although mainstream politicians now (generally) profess to support gender equality and racial equality, this is not always reflected in their policies or rhetoric, as illustrated by Australia's treatment of (primarily non-white) refugees who arrive by boat, the demonisation of Muslims and scare campaigns against African migrants. Combined with the persistence of violence against women, First Nations people and people of colour, this highlights that sexism and racism remain major problems in Australia.

Before concluding, it is important to note another, different type of bias that is held by most of the ideologies explored in this chapter. For the most part, these ideologies all operate within a broadly materialist and anthropocentric paradigm. In other words, they focus on the wellbeing of human beings, often to the exclusion of non-human animals and of environmental sustainability. One of the marked features of public life in Australia in the last few decades is the way in which Green political thinkers have drawn attention to this bias and brought new issues onto the mainstream political agenda. As one of the key figures in the Australian environmental movement put it:

Green politics does not accept the philosophical dualism which underpins modern industrial society (mind/body, humanity/nature, boss/worker, male/female) nor that of the traditional left (class struggle and class war leading to a classless

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81 Lake 1997, 41.

82 Sawyer 2003, 165.

83 Lake 2019, 238–41.

84 Lake 2019, 238–41.

85 For example, Moreton-Robinson 2015.

society). Instead, it presents the goal of a society where people live in harmony with each other and with nature.<sup>86</sup>

Australian activists and political thinkers have also challenged the animal/human dualism, questioning the human tendency to treat animals as mere instruments for advancing human wellbeing. The work of Australian ethicist Peter Singer has been particularly influential in this area.<sup>87</sup> Singer's argument for animal liberation is based around the idea that what ultimately matters is whether an animal is sentient – not the species to which they belong. Promoting the happiness and preventing the suffering of any sentient being should be our primary ethical concern. This means that human beings need to radically rethink their treatment of non-human animals. This represents a further challenge to the assumptions that underpin the political ideologies that have long dominated in Australia.

## Conclusions

This chapter has introduced some of the major ideologies that have shaped – and continue to shape – Australian politics. It has outlined the Western ideologies of conservatism, liberalism, socialism, social democracy and labourism, explaining their key ideas and discussing the ways they have influenced Australian politics. It has also highlighted some of the common ideas that cut across many of these ideologies, particularly relating to nationalism, race, gender and human dominance over the rest of the eco-system. Although much more could be said on each of the positions discussed here, this brief overview challenges the view that Australian politics is bereft of ideas and illustrates – for better and worse – the diversity of Australian political thought.

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<sup>86</sup> Hutton, cited in Walter 2010, 279.

<sup>87</sup> Chen 2016, 31–6. And see especially Singer 1975.

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# Institutions



# Executive government

Marija Taflaga

## Key terms/names

accountability, bureaucracy, centralisation, chain of delegation, crown authority, executive, governor-general, ministerial responsibility, ministerial selection, parliamentary system, partisan, politically appointed staff, presidential system, prime minister, Prime Minister and Cabinet, principal-agent problem, responsible government, responsible party government, semi-parliamentarism, semi-presidentialism

The executive is one of the three branches of government, alongside the legislature and the judiciary. As the name suggests, its function is to *execute* laws and regulations. In Australia, the executive is the part of government containing the prime minister, Cabinet, ministerial offices and the head of state, the governor-general. Thus, while our first thought might be that the executive is ‘the prime minister’, it is in fact a collection of institutions that are bundled together, with complementary, and sometimes competing, responsibilities.

In a modern state, the ‘executive’ cannot govern alone – it is bound to other institutions. Depending on the exact nature of the regime (democratic/authoritarian or presidential/parliamentarian), the executive may be constrained by some institutions (e.g. the judiciary), dominant over others (e.g. the bureaucracy) and possibly even co-equal with some (e.g. the legislature in a presidential system). However, the principal relationship that defines how political scientists classify regimes is

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the executive–legislative relationship. In this chapter, we will first consider how executive regimes can be classified across the world and then examine Australia in depth.

### Executive–legislative regimes

Historically, executive power grew out of a monarch's governing councils and the administrative machinery through which they ruled. We can still see evidence of this in the UK, where the lord chancellor – a role that was created 1,400 years ago to manage the monarch's correspondence – was the name for the minister of justice until 2005. Different approaches to tradition and modernisation mean that the precise organisation of executives can be idiosyncratic, though there are broad patterns across different executive regimes.

In the modern world, monarchs have either been replaced by presidents (presidential regimes) or their powers have been displaced and taken up by parliaments (parliamentary regimes). Exactly how monarchical power was translated into modern (democratic) governance is important for how government institutions are organised and how decisions are made. These rules matter for how power is distributed across government and, in democracies, how citizens hold their governments to account.

In democracies, what makes presidential regimes distinct is the fact that the legislative and executive branches are separate and receive mandates through separate elections. Presidents are not *directly* accountable to their legislatures, nor do they sit within them. In turn, presidents have limited capacity to directly influence legislatures, just as legislatures have constrained capacities to limit the actions of presidents. Once elected, the president selects her executive, who will help to run *her* government; members of the executive are usually recruited from outside of the legislature. The president is also *both* the head of state and the head of government.<sup>1</sup>

By contrast, in parliamentary regimes only one mandate is sought from the people, when they elect the legislature. The executive (or just 'the government') is then formed from within this legislative pool. The party or coalition of parties that can command the greatest (or most stable) number of parliamentary seats has secured the 'confidence' of the chamber and forms the government. Members of the executive in parliamentary systems retain their positions in the legislature; they are *both* legislative representatives and ministers of state. They are able to directly influence, and even dominate, the workings of parliament. But they are also directly *accountable* to parliament. In fact, the (executive) government's very survival rests on its ability to retain a majority (or confidence) within parliament.

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1 Lijphart 1999.

This distinguishes parliamentary regimes from presidential systems, in which a government cannot be dissolved with a legislative vote.

While prime ministers may be influential in the selection of ministers, they may not enjoy an absolute right of appointment. Instead, appointments depend on a combination of (1) convention, either within political regimes or parties, and/or (2) raw numbers, such as when a coalition of parties forms government and ministerial positions must be negotiated between partners. Finally, while the prime minister is the leader of the government in parliament, she is not the head of state.

### Hybrid systems

To make matters more confusing, the executive–legislative systems of some countries are hybrids: either semi-presidential or semi-parliamentary systems.<sup>2</sup> Semi-presidential systems (e.g. France) are similar to presidential systems, but with some parliamentary characteristics. The president and the legislature are separately elected, and the parliament appoints the prime minister. In this model, presidents and prime ministers share executive powers, and the actual practice of politics can be significantly shaped by whether or not the president's party has a majority in the legislature.

Recently, some scholars have argued that we should recognise the existence of semi-parliamentary systems.<sup>3</sup> Semi-parliamentary systems resemble parliamentary systems, but the way the legislature and the executive relate to each other means that the upper and lower chambers can pursue different democratic aims. Put another way, semi-parliamentary systems are executive–legislative systems where the legislature is divided into two *equally* legitimate parts, but the survival of the executive only depends upon the confidence of one part of the legislature. In Australia, only the lower house must supply confidence for the Cabinet. The Senate, which has near equal powers, can and does align itself to different democratic aims.<sup>4</sup> This makes it different from parliamentary systems like the UK and Canada. It also may go some way to explaining why conflicts between the House and the Senate endlessly circle around whether or not the Senate's use of its constitutional powers is legitimate. It is!<sup>5</sup>

In authoritarian or semi-authoritarian regimes, we may recognise the institutional features of the democratic executive–legislative regimes described above, but the essential practices, norms and beliefs that sustain them may be absent, changing the nature of governance again.

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2 Duverger 1980; Ganghof 2017.

3 Ganghof 2017.

4 Ganghof, Eppner and Pörschke 2018.

5 Taflaga 2018.

## The Australian executive

The fact that Australian states were British colonies ensured that the design of Australia's executive governance was lifted from Westminster. The relationship between the executive and the legislature developed differently in England, compared with its main European rivals. England's early development of a taxation system during the Hundred Years War (1337–1453) and the assertion by the lords of their rights in the Magna Carta (1215) meant that the English Crown could not ignore parliament as continental monarchs did. In fact, they needed parliament to pay for their armies. England's adoption of Protestantism during the Reformation further empowered the parliament over the King's other great rival for power, the church.

The tension between monarch and parliament became horrendously violent during the English Civil War (1642–51), and pressure again built up during the 1680s, resulting in the Glorious Revolution of 1688. The Glorious Revolution saw a dramatic but peaceful rebalancing of power between the Crown and parliament within England, but led to wars in Ireland and later in Scotland. After the revolution, the monarch could not raise any taxes without parliamentary consent. Another unforeseen consequence of this revolution was that the heir to the British monarchy became the German elector of Hanover, George I. During the reign of the 'foreign' Hanoverians, the role of the monarch's 'ministers' became ever more important. The effect was to entrench parliamentary government and slowly transfer the direct application of the monarch's powers to his ministers, who ran *his* government. Yet this transfer was slow because the King and his aristocratic supporters retained control over access to parliamentary seats until successive democratic reforms during the 19th century. To this day, the Australian prime minister and the Australian government derive their authority from the Crown – it is Her Majesty Queen Elizabeth II's government.<sup>6</sup>

### *Responsible government*

When the practice of 'modern' British government was first described in the 1860s by the English journalist Sir Walter Bagehot, he characterised the monarchy as the 'dignified' part of government and the exercise of partisan power in Cabinet as the 'efficient' part.<sup>7</sup> Politics at the time was not dominated by political parties as we understand them today. Therefore, it was not uncommon for governments to collapse and new governments to form without an election. If a government should fall, it was the duty of the premier/prime minister to advise the monarch, or in Australia's case the governor, who might be able to form another.

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<sup>6</sup> Norton 1981.

<sup>7</sup> Bagehot 1963.

When the Australian colonies sought self-government in the 1850s, this meant ‘responsible government’ as practised in Westminster. Responsible government means that the executive must be formed from within the legislature and is responsible to the legislature. Responsibility is twofold: the executive (the government, or more specifically the Cabinet) is collectively responsible to the legislature and each individual minister is also responsible to the legislature. The implication is that if the executive loses the confidence of the legislature, it must resign. Losing the confidence of the parliament is not the same as losing a vote on a single piece of legislation. In that case, it would be up to the government to decide if it could reasonably continue or run the risk of a failed motion of no confidence. In contemporary Australian politics, this is rare because of party discipline and because governments have enjoyed majorities in the House of Representatives. However, the recent hung parliaments in 2010–13 and 2018–19 have demonstrated that this institutional design is still potent, despite decades of dormancy.

Modern Australia differs from the UK because at Federation the decision was made to borrow features from the USA and Switzerland. Australia not only became federal, it also became meaningfully bicameral, creating a very powerful second chamber, the Senate.<sup>8</sup> These institutional differences have proven important for shaping how the executive relates to the legislature and what powers it can exercise. As noted, the Senate has near equal powers to the House. Since the mid-1960s, governments have had their legislative programs thwarted by the Senate and, more often, have been forced to adopt changes to their policy programs. However, loss of confidence by the Senate does not see the defeat of the government – the government rarely enjoys a majority in that chamber. This is because the executive is only responsible to, and must retain the confidence of, the House of Representatives. It is for this reason that some scholars argue that Australia is ‘semi-parliamentary’ or ‘not parliamentary’.<sup>9</sup>

### *The governor-general*

The governor-general acts as the Queen’s representative in Australia, as outlined in sections 61 to 64 of the Constitution. The governor-general and her Executive Council appear both powerful and dominant. Indeed, you might be forgiven for thinking the governor-general is the most important institution in the Australian executive. After all, no election can be held and no law can come into force unless assented to by the governor-general. The governor-general also has the power to withdraw the commission and terminate appointment of the government – and Sir John Kerr did so in 1975. But, in practice, the post is largely ceremonial and ‘dignified’. The powers of Crown authority are now exercised by the prime minister

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8 Galligan 1995.

9 Bach 2003.

and her Cabinet and, by convention, the governor-general is obliged to follow the advice of her ministers.

#### The prime minister

First among the monarch's ministers, the prime minister is not mentioned in the Australian Constitution. The prime minister is the chief executive who leads the government in the executive and in the legislature. In the executive, the prime minister is the head of the Cabinet and can draw on the resources of her own department (Prime Minister and Cabinet [PMC]). Through her ministers, the prime minister is indirectly responsible for all the actions of her government. But, as we shall see, this principle doesn't translate neatly into practice.<sup>10</sup> Finally, prime ministers have the power to ask the governor-general to dissolve parliament, and in recent times prime ministers have asserted their power to declare war.

Today, the prime minister is also the leader of a formally organised political party and, by convention only, drawn from the House of Representatives. The evolution of political parties and their impact upon legislative politics has influenced the practice of the prime ministership. The prime minister has either large or total discretion in selecting her Cabinet and has the luxury of relying on strong party discipline when advancing her program in the legislature. Further, prime ministers will bring this *partisan* perspective, and their responsibilities as a *partisan* (party) leader, to virtually all aspects of the prime ministerial role.

#### *Powers of the prime minister*

We can see that the explicit power and, even more so, the potential influence of the prime minister extends from the executive and the bureaucracy to the legislature and to her own party. It is no surprise then that the role of the prime minister is poorly defined in Westminster systems like Australia. Few specific rules, laws or handbooks of practice have been written about the role. Instead, roles and responsibilities are in part a product of tradition and convention and in part a product of the prime minister's own creativity. A prime minister's capacity to exercise *all* of this power is influenced not only by the official rules, or even conventions, but also by other political actors' perceptions of her power. Strong prime ministers may expand their role into new domains or appropriate powers to themselves that were previously executed by other ministers, actors or institutions. They can do this because the role is not codified and in circumstances where other actors' perception of the prime minister's personal authority is high enough to overcome internal resistance.

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<sup>10</sup> Jennings 1966.



Since the late 1970s, there has been an ongoing debate about the nature of prime ministerial power. In Australia, as in other Westminster countries, much of this discussion has focused on the ‘presidentialisation’ of the prime ministership.<sup>11</sup> Indeed, there is a growing discussion of the ‘presidentialisation of politics’ more generally.<sup>12</sup> Presidentialisation is centralisation of power in the hands of prime ministers (or party leaders) and emphasis on leaders over ministerial (or party) teams. However, given what we have learnt about the nested nature of (semi-)parliamentary executives, we might instead want to think about this puzzle in terms of what powers prime ministers actually exercise. If we compare prime ministers to presidents, we could conclude that even though presidents may have more formal (written down) powers, prime ministers in reality have more effective powers.<sup>13</sup> After all, prime ministers are meaningfully influential across multiple government institutions. Presidents may wish they were prime ministers!

### Cabinet

Cabinet originates from the King’s ‘Privy Council’, or private group of councillors. However, as parliamentary power asserted itself over the Crown, the King’s counsellors also had to hold a seat in one of the parliamentary chambers. At first, this was a useful means to exert direct influence over the parliament to ensure the ‘right’ outcome, but eventually it became an essential prerequisite for selection into the monarch’s ‘Cabinet’. The modern prime minister would be the most important of these monarchical advisers (Cabinet ministers), running the government on behalf of the Crown. Just like other political institutions Cabinet’s functions and relative importance have changed over time.

Cabinet is both an administrative and a partisan forum. This team of rivals (even enemies) is responsible to the parliament but also to their party room. A key principle of Cabinet government is collective decision making or ‘collective responsibility’. Cabinet is a deliberative body, where frank discussions about policy proposals, spending and administrative decisions and political strategies are undertaken.

As prime ministers have historically served at the pleasure of their parties, it is essential for prime ministers to meet with their colleagues frequently and for Cabinet to discuss the most difficult issues facing the government. Once a decision has been made by the Cabinet, all members agree to support the decision – this is known as ‘Cabinet solidarity’. In this sense, we might think of Cabinet as a ‘corporate person’ because it collectively comes to a decision and then speaks with one voice to the parliament and the people.

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11 Kefford 2013.

12 Webb and Poguntke 2005.

13 Dowding 2013.

Cabinet makes up the most senior ministers that are responsible for *executing* government decisions. As the size of the state has expanded, so too has Cabinet. In Australia, both citizens' increasing expectations of the services that the state ought to provide and the accrual of powers from state governments to the federal government has seen the expansion of the size of the federal Cabinet. We can observe this by considering the nine Cabinet portfolios from 1901, compared to the legal maximum of 30 (currently 23 in Cabinet, seven in the outer ministry) today (see Table 1).

To encourage strong internal debate, but also to shield members of the Cabinet who disagree, all Cabinet deliberations are held in secret. It is for this reason that Cabinet leaks are considered so serious – they signal *disloyal* dissent from the heart of government. It is not the dissent that is disloyal, but the act of exposing private conversations, undermining the secrecy that keeps Cabinet debates robust. Indeed, members of the Cabinet that feel they cannot publically support the Cabinet's collective decision must resign.<sup>14</sup>

Like several other aspects of Westminster executives, what happens in Cabinet is largely governed by convention. Prime ministers chair Cabinet and decide how it will function. Issues are placed on the agenda and submissions supporting or opposing a policy idea, spending proposal or line of political attack are circulated beforehand. Smaller subcommittees of Cabinet may also meet to deliberate on specific policy domains. Some of these smaller committees, such as the Expenditure Review Committee, make recommendations on spending in the budget and are consequently very powerful. Exactly how many and who sits on these smaller subcommittees is determined by prime ministerial discretion.<sup>15</sup>

Precisely how submission processes work and how the debate is conducted is subject to prime ministerial preference. It may seem trivial, but how easy it is to raise issues, how those conversations are controlled and how welcome discussion is has important implications for how decisions are made and their overall quality.

Australia has seen many Cabinet configurations and styles, which reflect the political principles of parties and the personalities of prime ministers. At the extremes, we have the Whitlam government's (1972–75) inclusive but unruly 27-strong Cabinet. This oversized Cabinet was the product of Labor's long years in opposition and reflected the party's democratic ethos. But having so many people in the room added to the chaotic nature of that government's administration. Another extreme relates to workload – Malcolm Fraser's (1975–83) Cabinet undertook an exhaustive workload, considering a large number of matters without formal submissions. One of the reasons Fraser's Cabinet spent so much time in debate was that ministers brought more matters to Cabinet for collective decision making, rather than making decisions themselves. By contrast, the Hawke Cabinet

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<sup>14</sup> Department of the Prime Minister and Cabinet 2018.

<sup>15</sup> Weller 2007.

**Table 1 Cabinet portfolios in 1901 and 2019**

| <b>Cabinet portfolios in 1901</b>   | <b>Cabinet portfolios in 2019</b>  |
|-------------------------------------|--|
| Prime Minister and External Affairs | Prime Minister; Public Service   |
| Treasurer                           | Deputy Prime Minister; Infrastructure and Transport and Regional Development       |
| Trade and Customs                   | Treasurer  |
| Home Affairs                        | Indigenous Australians   |
| Attorney-General                    | Water Resources, Drought, Rural Finance, Natural Disaster and Emergency Management |
| Defence                             | Population, Cities and Urban Infrastructure  |
| Post-master General                 | Finance  |
| Minister without portfolio (×2)     | Agriculture  |
|                                     | Foreign Affairs; Women   |
|                                     | Trade, Tourism and Investment  |
|                                     | Attorney-General; Industrial Relations   |
|                                     | Health   |
|                                     | Home Affairs   |
|                                     | Communications, Cyber Safety and the Arts  |
|                                     | Education  |
|                                     | Employment, Skills, Small and Family Business                                      |
|                                     | Industry, Science and Technology   |
|                                     | Resources and Northern Australia   |
|                                     | Energy and Emissions Reduction   |
|                                     | Environment  |
|                                     | Defence  |
|                                     | Families and Social Services   |
|                                     | National Disability Insurance Scheme; Government Services                          |

Source for 2019 portfolios: Parliament of Australia 2019.

(1983–90) was known for its strong debating culture, and Hawke was considered a good chair.

## Ministers

As government has become more complex, the number of functions it undertakes has required more ministers (see Table 1). Menzies split the ministry into the Cabinet (12 members) and the outer ministry (10) by convention in 1956. Whitlam at first overturned this practice, but later formalised an ‘inner’ and ‘outer’ ministry because of the difficulties he faced in managing his oversized Cabinet. The Hawke government moved to a portfolio system, which made the executive more clearly hierarchical. Cabinet ministers would oversee large portfolio domains, like defence, and be assisted by outer (assistant) ministers who would have responsibility for a specific domain within the portfolio, such as veterans’ affairs. Several ministers could work within one portfolio because the prime minister would outline their specific responsibilities in charter letters. Outer ministers would only attend Cabinet when matters directly relating to their portfolio were discussed. Reforms in 1987 also added a third tier: parliamentary secretaries (junior ministers), who support ministers or the prime minister but are not formally sworn in.

Ministers are formally delegated power via the Crown in section 64 of the Constitution, but in practice via the prime minister. Ministers are responsible for making decisions and administering their departments. The functions ministers undertake are varied and include administrative and partisan aspects:

- administering their department
- designing and announcing policies and government decisions
- introducing and shepherding legislation through parliament
- implementing and enforcing legislation, policy programs and regulations
- advocating for and educating the public about government decisions
- managing appointments to government posts and statutory authorities within their portfolio (e.g. High Court judges, telecommunications ombudsman or ambassadors)
- making discretionary decisions (e.g. the right of immigration ministers to overturn visa decisions made by their department)
- establishing inquiries
- submitting to and responding to scrutiny of their and their department’s activities by parliament, the media, statutory authorities (where relevant) and the public.

However, in contemporary politics, the prime minister is likely to have a significant influence over many of the functions listed. In complex policy areas, multiple ministers may try to co-ordinate their actions across government. Some functions of the executive are beyond the scope of a single minister, including:

- the overall co-ordination of government
- designing, shepherding and implementing the budget
- negotiating with the states and managing the Council of Australian Governments (COAG)
- waging war
- responding to disasters.

Recall that under responsible government, ministers are individually responsible to parliament for the actions of their departments. Ministers may be subject to questioning in parliament, but this obligation does not extend to parliamentary secretaries. Ministers can also be held to account through parliamentary committee activities, statutory authorities such as the Australian National Audit Office, Freedom of Information requests and, in the most extreme cases, royal commissions. Should a minister lose the confidence of the House due to maladministration within her department, she may resign. Far worse is losing the confidence of her party room or her prime minister. In the best case scenario, a minister may be quietly eased out at the next Cabinet reshuffle; in the worst, she may face the ignominy of being sacked. Individual ministerial responsibility is a principle underpinned by norms and practised as convention, and is therefore open to interpretation. Further issues of accountability are discussed below.

#### Ministerial selection

Chief executives (in Australia, prime ministers) have a large say in ministerial selection, but they do operate under constraints. In Australia, the principal constraints on prime ministers relate to party and strategic considerations. In other executive–legislative regimes, constitutional considerations, such as the way prime ministers must negotiate appointments with presidents in semi-presidential systems, may also be important. Before the election of Kevin Rudd in 2007, Labor prime ministers were unable to directly select their ministry. Instead, Labor leaders had the power to allocate portfolios among candidates either elected by the caucus or approved by a smaller advisory committee. However, even where prime ministers enjoy full powers to hire ministers, they often consider representational constraints, such as state (well accommodated) and gender (poorly accommodated) balance. In Australia, party considerations include factional alignment and an appropriate balance between parties in a governing coalition. Strong party discipline, the role of factions, the small selection pool and the emphasis on relatively even state representation mean that Australian prime ministers are more heavily constrained than they appear at first glance.<sup>16</sup>

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<sup>16</sup> Dowding and Lewis 2015.

On face value, we might think that prime ministers only want the best performers as ministers. Yet, strategically, prime ministers need a mix of skills within Cabinet – some ministers to drive policy agendas, others who can act as steady hands. Then there are those who cannot be ignored because of their ambition or other party reasons, even if they lack the skills that make strong ministers. Some ministers may be appointed solely as a reward, to secure loyalty or to keep enemies under close observation.

#### Managing the executive

A minister is a partisan and temporary head of department. Ministers only serve as long as the prime minister retains their services and their government survives. By contrast, the bureaucracy is the non-partisan and permanent institution that's purpose is to serve the government by offering advice and transforming executive will into reality.

In short, ministers – the principal actors – delegate their authority to their bureaucracies – their agents. But, in practice, it is not that simple. The principal–agent problem between ministers (principals) and bureaucrats (agents) is one of information asymmetry. Even though ministers are in charge, the bureaucrats that serve them are often more expert and more experienced; through this information asymmetry, bureaucrats can have a greater influence on the eventual outcome.<sup>17</sup> One reason for this is that opposition is only partial preparation for government, offering no experience in running a large organisation like a government department. In cases where information asymmetry is large and a minister is uncritical, that minister may even be considered 'captured' by the bureaucracy.

#### *Politically appointed staff*

In Australia, the 1970s saw growing complaints by both major parties that the bureaucracy was insufficiently 'responsive' to the (partisan) needs of ministers. Similar complaints were repeated in other countries. Politicians identified two problems. First, governments felt that an overly powerful bureaucracy diluted ministers' power to implement the political mandate they had secured at the election. Ministers were outnumbered in ministerial offices and lacked their own (partisan) sources of advice. Second, a non-partisan bureaucracy was poorly equipped to assist ministers with the political aspects of their job, such as advocating and overseeing the implementation of ideologically compatible policies.<sup>18</sup>

In 1972, Labor returned to power and appointed large numbers of political staff to support its ministers due to its long-running distrust of a bureaucracy that had

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<sup>17</sup> The comedy classic *Yes, Minister* is replete with amusing examples of this problem.

<sup>18</sup> Taflaga 2017.

served its opponents for 23 years without interruption. This practice was continued and expanded upon by the Fraser government and given legal form by the Hawke government in 1984.<sup>19</sup>

Today, Australia has around 450 political staff at the federal level. Political staff have become an institutionalised component of executive office. They offer both partisan and personal support to their ministers. Staff also support ministers' executive function by undertaking overtly partisan policy work, such as agenda setting, bargaining and negotiating within government. They also undertake other policy work that overlaps with the roles of the minister and the bureaucracy, such as meeting with stakeholders and working with the bureaucracy to 'deliver' outcomes.<sup>20</sup> However, political staff are not accountable in the same manner as ministers or senior public servants. They are not required to present themselves before parliament and cannot be called before parliamentary committees.

### Centralisation of power

In recent times, there has been a growing debate about the decline of Cabinet government and the increasing dominance of the prime minister. Part of the debate is driven by the establishment and expansion of political institutions supporting the prime minister. In 1911, the PMC was established. However, PMC's role was largely administrative until the prime ministership of John Gorton (1967–70). After this time, PMC developed the capacity to act as both a co-ordinator across government and a source of separate, and rival, departmental advice to the prime minister. The concurrent development of the prime minister's personal office (PMO), which is by far the largest and best resourced, has also reinforced and extended existing information and power (hiring and firing) asymmetries between prime ministers and ministers.<sup>21</sup>

Access to advice and additional capacity for oversight has made it possible for prime ministers with high standing to dominate their governments. John Howard achieved dominance over his government through the skilful use of the resources of the PMO and PMC, in combination with his personal leadership qualities and style. Importantly, however, as government becomes more complex, there is growing need for oversight and co-ordination across departments. Given that ministers are responsible to the prime minister and that the prime minister is the head of the government, centralisation is a pragmatic response to the complexity of governing.

However, we should not make the mistake of crudely translating prime ministerial prerogative as strength. Consider the example of Kevin Rudd, who was able to dominate his Cabinet by usurping the right to hire and fire ministers from the

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19 Maley 2018.

20 Maley 2000.

21 Strangio, t'Hart and Walter 2017.

caucus. Rudd attempted to centralise and control so many decisions that he was unable to effectively undertake the business of government. Key policy issues were left to drift and his colleagues began seeking the advice and help of his deputy, Julia Gillard. Ultimately, Rudd lost the confidence of his party room and was replaced, partially on the grounds that he was not running an effective Cabinet government. Rudd failed to use Cabinet as a robust and consultative forum.

#### Executive government and accountability

Governance relies on delegation. In a (semi-)parliamentary democracy we can conceptualise delegation as shown in Figure 1. This is a simple model of delegation; the delegation of the authority to act passes from one principal (e.g. voters) to their agent (e.g. parliament). Functioning accountability measures are what distinguishes democracy from non-democratic forms of governance.

However, as we have already discovered, the actual practice of executive governance in Australia is more complicated. *Agency problems* arise across the chain of delegation. One of these problems may relate to a difference of preferences between principals and their agents; what voters want and what parliament legislates may be very different.

The other problem is the result of a lack of information on the part of the principal. This problem of information comes in two forms. The first is *adverse selection*, which relates directly to the quality of representation. Voters may not have access to enough information or the capacity to choose the representatives that will serve their interests best. Arguably, political parties, which act as interest aggregators, have helped resolve the issue of adverse selection by organising around a party label, which gives citizens ideological shortcuts to help them vote.

The second is *moral hazard*, where the principal lacks the means or information to keep their agents accountable and diligent. Party discipline has significantly diluted the ability of parliament to keep the executive accountable, particularly when an issue is not central to the survival of the government. However, Australia's strong Senate, and its powerful committee system, does provide a legislative mechanism for executive accountability.<sup>22</sup>

Agency problems also play out at other stages of the chain of delegation. As we discussed above, the calculations a prime minister must make when selecting her Cabinet may not reflect her preferences, and ministers must work with a civil service that they are not always able to select.

As we have seen, prime ministers and ministers have developed new institutions – PMC and politically appointed staff – to help them to solve delegation problems between the prime minister and ministers, and between ministers and the bureaucracy. However, these new institutions have also complicated the chain of delegation

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22 Strøm, Muller and Bergman 2003.



## Executive government



Figure 1 The model of parliamentary delegation.

and, in turn, the chain of accountability. Who is responsible in a complex policy area when something goes wrong? Given the size of government departments, with thousands of employees, at what point do ministers or even prime ministers become responsible if they know an issue has arisen? What is the precise role of politically appointed staff? To what extent can they speak for their minister and in what ways should they be subject to scrutiny?

In the last 30 years, these issues have concerned scholars and bureaucrats, who continue to debate whether or not Cabinet government still exists, whether the chain of accountability still functions appropriately given the new role of politically appointed staff and whether the balance between ministers, their staff and the bureaucracy is appropriate to achieve good government.<sup>23</sup>

## Responsible party government

Executive governance in Australia is a set of practices and norms supported by institutions both within and outside the executive. As we have seen, the executive is subject to the significant influence of political parties, both within the legislature and outside the official institutions of government. Outside elections, accountability to the party room may be more potent than accountability to the parliament. As outlined above, actors exercising executive roles are partisan, subject to party discipline and with their eyes always on the next election. Alongside the official rules and the unwritten conventions of their offices, these partisan considerations shape executive actors' choices. Although we officially call our system 'responsible government', currently a better label is 'responsible party government' because power is interpreted and exercised through a party lens.<sup>24</sup>

## Conclusions

Australia's system of Cabinet government is flexible and open to interpretation. This has been its primary strength, allowing it to adapt to changing circumstances, such as the rise of parties, and respond to the needs of creative prime ministers through the creation of new institutions. However, it has also bred its own problems. These issues

<sup>23</sup> Podger 2007; Shergold 2007; Tiernan 2007; Weller 2003.

<sup>24</sup> Lucy 1993.

have come to the fore through inquiry along the accountability chain. The expansion of the committee system in parliament, the development of statutory authorities like the Australian National Audit Office, the creation of Freedom of Information laws and the debate around establishing a national integrity commission are just one set of responses to constraining executive power and keeping the executive accountable to citizens. As long as accountability remains a priority of our political system, this discussion will be ongoing.

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# Parliaments of Australia

Tracey Arklay and Neil Laurie

## Key terms/names

bicameral, confidence, Constitution, executive, governor-general, House of Representatives, hung parliament, legislature, minority government, responsible government, Senate, supply, unicameral, Westminster system, Westminster

Australia's new national Parliament House opened in 1988. It is one of the most recognisable and routinely scrutinised workplaces in Australia. Parliament House is much more than an impressive building. It is a symbol and a link to history, a meeting place and a debating chamber. It is the building where our laws are made, where governments rise and fall, where leaders are made and broken and where the theatre of Australian politics is played out. It is where compromise and consensus sit, sometimes uncomfortably, alongside partisanship and power. Parliament is a place of ideas, ideology, debate and deliberation. It is also a place that provides checks and balances on political power, including the power to impose taxes and the power to decide who can become a citizen. Parliament makes policies that affect all our lives.

The Australian parliament has been the setting for some of the most memorable political events in the nation's history. It is where the will of the people can triumph, such as in the 2017 same-sex marriage laws, and where historical wrongs are officially recognised, as exemplified by the apology to the Stolen Generations. In short, parliament is an important democratic institution. Yet despite its central

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role, many Australians now have a diminished view of parliament. In part, this is due to the 24-hour media cycle and the rise of social media that focuses on conflict and intrigue, emphasising the ‘theatre’ of politics and minimising the substantive. For some, the parliament is seen as nothing more than a ‘rubber stamp’ for a powerful executive. Others believe parliaments are in decline, no longer relevant in the modern era.<sup>1</sup> While this chapter’s focus is on the federal parliament, the state parliaments share many similarities, so much of the discussion is also applicable to state institutions.

This chapter proceeds with a description and summary of the parliament’s origins, and then moves to discuss the analytical themes that inform the Westminster tradition. It explores the role and functions of parliament and provides an overview of the sources of laws, procedures and practices that at times seem archaic, but that are fundamental to its workings and need to be understood by its elected members. After reading the chapter you should have an appreciation of the parliament’s important role in our democracy and of other institutions’ – electoral systems, political parties and the media – impact on the parliament in practice.

#### Parliaments in context

There are nine governments in Australia: one national and eight subnational.<sup>2</sup> Each government has its own parliament – namely the national parliament, the six state parliaments and two territory legislative assemblies. Most state parliaments have two houses (the lower and upper houses) and are termed bicameral. Queensland, the Australian Capital Territory (ACT) and the Northern Territory governments<sup>3</sup> have one house and are termed unicameral. In a practical sense, the houses of parliament are the supreme law-making bodies; they combine to oversee governments and to provide checks on power. The territory legislatures can make laws but can also have their laws overturned or restricted by the Commonwealth parliament.<sup>4</sup> In the absence of a second chamber, such as in Queensland, the scrutiny of government falls to the opposition and to parliamentary committees (see below).

The Australian parliament is representative in so far as its members are chosen through the electoral process by citizens living across Australia’s 150 federal electorates (House of Representatives) and 76 Senate positions (12 from each state and two from each territory). The influence of the electoral system on the composition of parliaments is immense. Single-member preferential voting in the lower house

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1 Crick 1970.

2 There are also approximately 500 local governments and shire councils across Australia.

3 The two territory governments were created by legislation passed in the Commonwealth parliament. The ACT is unique in that its one house (the Legislative Assembly) is both a local government and a subnational legislative body and has no governor or administrator.

4 In 1997, the self-government Acts of the territories were amended to restrict the territories’ legislative power to prevent them making laws about euthanasia.

has ensured that major parties (Labor, Liberal and National) dominate.<sup>5</sup> This is why 'hung' parliaments or minority governments are historically rare events. Nonetheless, there is a high level of bicameralism evident in the Australian parliament. The Senate is rarely dominated by the government of the day because of the electoral system used. The proportional voting system provides a greater likelihood of independents and minor parties being elected.<sup>6</sup> For details on the different systems operating across Australia, refer to Table 1.

#### The origins of the Australian parliament

The parliamentary system in Australia was modelled on the 'mother of Parliaments', located at the Palace of Westminster in England. This enduring legacy contributes to its traditions, practices and conventions. Independence from Britain began in the Australian colonies in the mid-19th century. Each colony's parliament was established on Westminster principles, characterised by governments formed from those elected to the lower house. Ministers are appointed from the government side and are responsible to parliament for their actions. Because the operation of the Westminster parliamentary system was well understood, there was little in the way of written constitutions and significant reliance on tradition or convention. While all Westminster jurisdictions share similar traditions, each has adapted their system of government to suit their own unique circumstances.

Compromise and pragmatism were needed in order to get each of the colonies in the 1890s (which later became the states) to overcome their parochialism and deep-seated suspicion to join together as one nation in 1901. The Australian parliament met in Melbourne until 1927, when its original building, now called 'Old Parliament House' and operating as a museum, was built in Canberra.

While remaining rooted in the British tradition, Australia's system of government also reveals influences from other places. Government in Australia combines Westminster principles of responsible government with a federal structure, consisting of the six states, with federal responsibilities set out in the Commonwealth Constitution. The Constitution limits the areas in which the Commonwealth parliament has exclusive jurisdiction and concurrent jurisdiction with the states.<sup>7</sup> The Senate was envisaged by the drafters of the Constitution as a state house, providing each state with an equal number of elected members, rather than a proportion based on

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5 The lower houses in the states and territories generally have one member per seat. In Tasmania and the ACT, five members represent each state seat. This is an example of multi-member seats, known in Australia as the Hare-Clark system.

6 Federally, the House of Representatives is elected using the full preference, transferable single-member constituency vote, while the Senate is elected by a system of proportional representation.

7 The Commonwealth Constitution preserves the parliamentary powers and the laws in force in each of the states, but provides that where a state law is inconsistent with a Commonwealth law, the Commonwealth law prevails (to the extent of the inconsistency).

**Table 1 Parliaments in Australia: a summary of composition, electoral system and term**

| Parliament               | Number of Members | Voting system  | Term  | Sovereign's representative or other constituting part of parliament |
|--------------------------|-------------------|--|---|---|
| <b>Commonwealth</b>      |                   |  |   | Governor-general  |
| House of Representatives | 150               | Single-member electorates. Full preferential voting.   | Up to three years.  |   |
| Senate                   | 76                | 12 for each state and four for two territories. Single transferable vote. Proportional representation. | Election every three years for half of the Senate. Six year terms.  |   |
| <b>NSW</b>               |                   |  |   | Governor  |
| Legislative Assembly     | 93                | Single-member districts. Optional preferential voting.   | Up to four years  |   |
| Legislative Council      | 42                | Single transferable vote system. Entire state is one electorate.                                       | Members are elected for two terms (a maximum of eight years), with half elected at each general election. |   |
| <b>Vic.</b>              |                   |  |   | Governor  |
| Legislative Assembly     | 88                | Single-member districts. Preferential ballot in single-member seats.                                   | Fixed four-year terms.  |   |

| <b>Parliament</b>    | <b>Number of Members</b> | <b>Voting system</b>   | <b>Term</b>            | <b>Sovereign's representative or other constituting part of parliament</b> |
|----------------------|--------------------------|--|------------------------|--|
| Legislative Council  | 40                       | Eight multi-member electorates, known as regions, each of which returns five members. Single transferable vote. Proportional representation. | Fixed four-year terms. |  |
| <b>Qld</b>           |                          |  |                        | Governor   |
| Legislative Assembly | 93                       | Single-member constituencies. Preferential voting.   | Fixed four-year terms. |  |
| <b>WA</b>            |                          |  |                        | Governor   |
| Legislative Assembly | 59                       | Single-member constituencies. Preferential voting.   | Fixed four-year terms. |  |
| Legislative Council  | 36                       | Multi-member constituencies. Proportional representation.  | Fixed four-year terms. |  |
| <b>Tas.</b>          |                          |  |                        | Governor   |
| House of Assembly    | 25                       | Hare-Clark voting system of multi-member proportional representation. Five members elected from each of the five divisions.                  | Up to four years.      |  |



| Parliament           | Number of Members | Voting system   | Term  | Sovereign's representative or other constituting part of parliament |
|----------------------|-------------------|---|---|---|
| Legislative Council  | 15                | Single-member electoral division. Preferential voting.  | Three electorates elected each year, on a six year cycle. |   |
| <b>SA</b>            |                   |   |   | Governor  |
| House of Assembly    | 47                | Full-preference instant-runoff voting system. Single-member electorates.  | Fixed four-year terms.                                    |   |
| Legislative Council  | 22                | 22 councillors elected for the entire state. Single transferable voting system (with optional preferential voting). | Fixed eight-year terms.                                   |   |
| <b>ACT</b>           |                   |   |   | Nil   |
| Legislative Assembly | 25                | Hare-Clark voting system of multi-member proportional representation.   | Fixed four-year terms.                                    |   |
| <b>NT</b>            |                   |   |   | Commonwealth Administrator  |
| Legislative Assembly | 25                | Single-member electorates. Optional preferential voting.  | Fixed four-year terms.                                    |   |

population size. This was to ensure every state had an equal say in decisions and could block laws that disadvantaged them. The Senate has rarely acted in this way, largely because of the dominance of political parties. Its powers, which include the ability to block finance, have led some scholars to argue that it moves Australia away from the

British notion of responsible government. The term 'Washminster' refers to the way Australia has combined elements of the UK and US systems of government.<sup>8</sup>

*Parliament – the Australian adaptation*

In practice, our system of government has distinct elements that form part of the Westminster 'chain of responsibility'. At the top, formally, is the head of state – the monarch – represented by the governor-general or, for the states, the governor – offices that largely play no role in politics or policy making. Parliament in the UK was formed as a way to control the powerful monarch in the Middle Ages by allowing other opinions and views to be represented.

In Australia, parliament gradually became more representative as those elected were chosen from a broader base and the electoral franchise was extended to include more people (women, Indigenous peoples). In keeping with British tradition, the prime minister, who is constitutionally lower-ranked than the head of state, leads the government. The three branches that form what is called a 'chain of responsibility' are the legislature (parliament as a whole), the executive (ministry) and the judiciary (High Court). As the executive, which is formed by the political party that wins the majority of seats in the House of Representatives, is both part of the parliament and accountable to the parliament – the separation of powers that you might hear mentioned does not fully exist in Westminster systems. The only distinct and important operational separation of powers is between the judiciary and the other two branches. So while we have an elected Senate like the USA, our prime minister (unlike the US president) is not separate from the parliament and is answerable to it.

While the Senate is established in the Constitution, other legacies, such as the notion of responsible government, are conventions handed down from Britain. In theory, responsible government means accountable government. Ministers are responsible individually for the departments they manage and collectively for what the government does as a whole. During question time in parliament, they 'must meet other members face to face, answer their questions, and explain, defend or excuse their own policies and the actions of the public servants under them.'<sup>9</sup> In practice, ministers almost never resign for departmental blunders or for decisions they make. The increasing complexity of government makes it almost impossible for a minister to be held accountable for the actions of their department. Likewise, as an increasing number of policy and other decisions are made by Cabinet, ministers shelter behind collective responsibility. While collective responsibility may be a longstanding convention, it could also be seen as a pragmatic realisation that 'if we do not hang together, we will surely hang separately'.<sup>10</sup>

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8 Thompson 2001.

9 Parker 1976, 179.

10 Weller 2015.

*Case example: Australian variance from the UK parliament – upper houses*

The UK parliament is a bicameral parliament with an elected lower house (the House of Commons) and a hereditary or appointed upper house (the House of Lords). The Queensland parliament abolished its appointed upper house, the Legislative Council, in 1922, thus becoming the only state to be unicameral. The other states have ensured that their upper houses are elected, not appointed. The Commonwealth parliament's Senate is elected and designed to represent the interests of each state.

In the UK, it was accepted convention that the House of Lords should not reject a budget passed by the House of Commons. In 1911, legislation made this convention law, following the rejection of a budget by the House of Lords and a constitutional crisis in 1909. In Australia, where upper houses are elected, this convention has not been universally accepted.

Functions of parliament

There is no exhaustive list of the functions of each parliament. While one of their most important functions is to make laws, the parliaments are not just legislatures. Their chief functions are representation, forming government, making laws, authorising budgets, confidence, raising grievances and scrutiny.

*Representation*

Members of parliament in the lower house have competing interests. They are charged with representing the people from the electorate that voted them into parliament, while at the same time considering the national (or state) interest. As most belong to a political party, they usually remain loyal to the policies, objectives and goals of that party. There are a variety of interests and many different types of people that a member of parliament hears from. These groups often have different perspectives on what needs to be done about a particular issue, producing tensions that sit uneasily at times.

Uhr and Wanna describe parliament as a 'theatre of action ... involving a wide variety of actors who interact around political issues'.<sup>11</sup> While a degree of bipartisanship usually exists around national interest policies, the parties often have differing views on how these policies are best achieved. One of the most famous speeches regarding representation comes from Edmund Burke who told his electors in Bristol in 1774 that:

You choose a member indeed; but when you have chosen him, he is not the member of Bristol, but he is a member of *parliament*. If the local constituent should have an interest, or should form an hasty opinion, evidently opposite to the real

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11 Uhr and Wanna 2009, 12.

good of the rest of the community, the member for that place ought to be as far, as any other, from any endeavour to give it effect. [Emphasis in original.]<sup>12</sup>

### *Forming government*

After an election, the political party that secures the most votes in the House of Representatives is asked to form government. An essential characteristic of the Westminster system is that the government must be able to maintain the support of parliament (particularly the House of Representatives) on issues of money and confidence. The requirement for governments to retain the support of the parliament explains why very close elections that result in a hung parliament or minority government are particularly problematic. In that case, it is incumbent upon the government to advise the governor-general that they have the support of the parliament – which effectively means that they would survive votes of no confidence and would be able to get their budget passed.

Historically, at the federal level, Australia has had very few hung parliaments or minority governments. The first occurred in 1940 and the second happened 70 years later, when Julia Gillard's Labor managed to win government on the back of the support of three independents and the Greens Party.<sup>13</sup> In 2018, the Liberal–National Party (LNP) lost the Wentworth by-election. Until the 2019 federal election, the Morrison-led federal government held only 75 of the 151 seat House of Representatives. This made its relationship with the crossbench (the independents and minor party members) crucial, as every piece of legislation the government wanted passed had to be negotiated. Smaller parliaments with fewer members are more likely to have minority governments, as are parliaments where the lower house has multi-member seats.

The 2015 Queensland election result brought into focus the workings of the largely dormant constitutional mechanisms for forming government, as outlined below. It is significant to note the calm approach of the governor in awaiting the declaration of seats before inviting anyone to become the new premier.

### *Case example: appointing a government in a 'hung parliament'*

The Queensland state election held on 31 January 2015 resulted in some significantly unusual outcomes. Firstly, neither major party secured a majority in its own right. Secondly, the premier going into the election, Campbell Newman, lost his seat, and thus the premier advising the governor after the election was no longer a member of the state's only house, the Legislative Assembly. Thirdly, the results in some seats were close and it took some time to determine the outcomes in those seats.

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<sup>12</sup> Burke 1986.

<sup>13</sup> Before the formation of the party system, most governments did not hold majorities.

Immediately after the election, it appeared that the governing party, the LNP, had won 42 of the 89 seats in the Legislative Assembly, three seats short of a majority. It also appeared that the Australian Labor Party (ALP) had won 44 seats, one short of a majority. Two members of Katter's Australian Party (KAP) and one independent were also elected.

The Queensland constitution, like the constitutions for the Commonwealth and other states and territories, does not detail how governments are formed. The Queensland governor, Paul de Jersey, had to rely on custom and convention to determine who to ask to form government.

On 5 February, the independent member, Peter Wellington, publicly pledged his support for the ALP on votes of confidence and supply, with certain caveats. The two KAP members did not formally declare support for either major party. However, results in some seats were still uncertain and close.

On 10 February, Campbell Newman tendered his resignation as premier, to take effect upon the appointment of a successor premier. Later on 10 February, the leader of the ALP, Annastacia Palaszczuk, called on the governor and advised that she had secured the support of the independent, Wellington, and that she had obtained independent legal advice supporting her claim to form government, should she be invited to do so. The governor advised Palaszczuk that he would await the poll declaration before commissioning a new premier.

On 13 February, the Electoral Commission of Queensland declared the results of the final seats, confirming that the ALP had obtained 44 seats and that Palaszczuk, with the support of Wellington, could guarantee supply and confidence. The governor then asked Palaszczuk to become premier and establish a government.<sup>14</sup>

#### *Law making (legislation)*

One of the principal functions of parliament is making laws. Laws are the guide for what we can and cannot do in our day-to-day lives. While the process of making new laws is technical, it is also often acrimonious and heated. For example, in 2017 the Victorian parliament passed laws to allow assisted dying, but not before more than 100 hours of debate occurred over various clauses of the Bill.<sup>15</sup> The process of making laws begins when Bills are introduced, debated, amended and passed by each house or chamber or, in unicameral parliaments, by the single chamber. If the Bill is passed, it is given assent by the sovereign's representative (the governor-general or governor) and, at that time, converted to an Act – a new law or an amendment to an existing law.

The legislative power of parliament extends to delegating legislative power to other bodies, such as the Governor-General in Council, so that those bodies can make laws called subordinate or delegated legislation. Regulations, by-laws

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<sup>14</sup> de Jersey 2015.

<sup>15</sup> Edwards 2017.

and ordinances are all examples of subordinate legislation. The parliament, as a precondition to the delegation of legislative power, provides mechanisms by which subordinate legislation is monitored and, if a house decides, 'disallowed'.

#### *Financial appropriation*

Just as we have to juggle to pay our bills, so too do governments. But, unlike us, governments need to seek authorisation from parliament first. They need to pass their budget in order to continue to pay for the services they are expected to deliver in areas such as health, education, police, defence and the upkeep of roads, for programs like the National Disability Insurance Scheme, or to provide drought relief or disaster assistance to suffering communities. Much of this money is collected through our ongoing taxes. To ensure it will be spent wisely, all governments need to inform and seek general approval from the parliament first.

One of the most essential constitutional legacies inherited from Westminster is the lower house's control of public finances. The laws and controls can generally be summarised as follows:

- Tax cannot be levied without the consent of parliament through legislation.
- The executive cannot borrow money upon the public credit without legislative authority.
- While money raised by taxation and other revenue vests in the executive (usually the Crown), no money can be paid from the money collected without a distinct authorisation of parliament.
- Revenues collected are deposited in a single fund usually called the Consolidated Revenue Fund.

A Bill approving expenditure to be deducted from the Consolidated Revenue Fund is called an Appropriation Bill. There are usually also laws providing for the audit and account of public expenditure, including a requirement that at the end of each financial year the treasurer must forward a statement of all transactions of the Consolidated Revenue Fund and details of appropriation paid to each department to the auditor-general for certification.

If the parliament decides to block a government's budget (this can be played out for an extended period of time as budget Bills bounce back and forth between the two chambers), the government will fall or a double dissolution trigger will be pulled. The most famous example of this process occurred during the Whitlam government's term of office in the 1970s.<sup>16</sup>

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16 Parliament of Australia n.d.

*Case example: 1975 – a failure to secure supply*

In October 1975, the opposition in the Commonwealth parliament, led by Malcolm Fraser, determined to block supply by deferring consideration of Appropriation Bills in the Senate. The opposition coalition had an effective majority of 30 to 29 in the Senate. The opposition's tactic was to deny the government supply to either force the prime minister to call a general election or cause the governor-general to dismiss the government and issue writs for a general election. Supply – the funding for government – would run out on 30 November. The Whitlam government was determined to advise the governor-general to call a half-Senate election in order to try and obtain a majority in the Senate.

On 11 November 1975, with supply still not passed, the governor-general dismissed Whitlam and his government and appointed Malcolm Fraser as prime minister on the condition and assurance that he could guarantee supply and would then advise the dissolution of the parliament and a general election.

Later that day, the Senate passed the Appropriation Bills and they received royal assent, and so supply was ensured. In the lower house, the House of Representatives, the new Fraser government suffered defeats, including a vote of no confidence and a motion instructing the speaker to advise the governor-general to dismiss Fraser and reappoint Whitlam. However, the governor-general dissolved parliament and writs for a general election were issued.

The dismissal of the Whitlam government remains one of Australia's most controversial constitutional and political events for a number of reasons. The Whitlam government retained the confidence of the House of Representatives, and the newly appointed Fraser government obviously did not have the confidence of that house, as the subsequent motions indicated. The convention that the upper house would not block supply had also not been followed.<sup>17</sup>

*Confidence*

A successful vote of no confidence means that the parliament no longer has confidence in the government. It is the parliament's ultimate expression of power to withdraw its support for the government. Once support is withdrawn the government usually falls or an election is triggered.

*Inquisitorial*

Each house is able to inquire into all instances of alleged abuse or misconduct and institute inquiries with coercive powers in order to perform any of its functions and bring about reform. In practice, the inquisitorial function of each house is usually exercised through its parliamentary committees. Committees are made up of a specified number of members delegated a responsibility by the house and provided

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<sup>17</sup> Kelly 1983.

powers and immunities to conduct inquiries and report back to the house. In modern parliaments, committees are increasingly used to review legislative proposals, scrutinise the budget and conduct inquiries into areas that may need law reform.

*Case example: New South Wales, 1999 – a minister fails to produce documents to the house*

On 24 September 1998, the Legislative Council of the New South Wales parliament passed a resolution directing the government to produce by 29 September all documents relating to the contamination of Sydney's water supply. On 29 September, the clerk of the Council received a letter from the director-general of the Cabinet Office, stating that, after advice from the crown solicitor, the government would not table some documents on the grounds of legal professional privilege and public interest immunity.

On 13 October, a further resolution was passed, again demanding that all documents be produced but providing that those that the government claimed were subject to immunity on the above grounds be made available to members of the Council only and not published or copied without an Order of the House. If any member disputed the government's claim, an independent arbiter would be appointed to adjudicate and report back to the house.

Significantly, under this resolution, a document that was claimed and identified as a Cabinet document would not be made available to Council members. Rather, the claim would be subject to a right of appeal to an independent legal arbiter.

The government once more refused to comply. Therefore, on 20 October, the treasurer and leader of the government in the upper house, Michael Egan, was suspended for five sitting days and removed from the house by the usher of the black rod. Egan disputed the Council's power to order the production of documents subject to either legal professional privilege or public interest immunity, or to determine the validity of such claims. The courts upheld the power of the Legislative Council on the basis that its power to suspend Egan was a necessary incidence of responsible government.<sup>18</sup>

#### *Debate and grievances*

An extremely important function of each house of parliament is to act as a forum to enable members to represent their constituents and allow the views and grievances of their constituents to be aired. The tabling of petitions is an example of this function, as is the time allowed for individual members' statements at adjournment or other debates.

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18 Griffith 1999.



### *Scrutiny or accountability*

Another important function of the parliament is scrutinising the policies and actions of the government of the day. This role is largely facilitated through an adversarial process whereby the lower house recognises an official opposition that puts counterproposals to the government and questions the government's policies and administration. Procedures such as questions with or without notice to ministers and institutions such as the parliamentary committee system assist the parliament in its scrutiny role. The great paradox of the Westminster system of government is that because government is formed in the lower house based on it usually having a majority in that house, the lower house becomes less effective in making government accountable.

### Procedures of parliament

Politics is a high stakes game. It is about power, and parliament is the foundation of that power. While a government needs to maintain support, part of the rules of the game, well understood by those in the parliament but less obvious to outsiders, is the adversarial nature of politics. Effectively, this means a key objective is to make life as difficult as possible for the other side. The other side, be that the government or the opposition, is after the same thing – to remain or become the government at the next election. The opposition enjoys formal status and power as the alternative government. It has equal time in parliamentary debates and in question time, it can seek meetings with the public service at certain times, and it receives public funding to resource offices and generally perform in its role.<sup>19</sup> Thus the parliament is where government members stick together in a show of solidarity while opposition members do their best to highlight the government's flaws.

The procedures are rules and customs that control how business is conducted and govern the behaviour of members. News reports on parliament tend to focus on question time which is where the theatre of politics is on display. The important thing to remember as you read through the various functions discussed in this chapter is that politics is about the fight and the procedures are about keeping the fight fair.

There are many procedures that set out the rules for how members should act towards one another. In each house the presiding officer (speaker or president), judges whether the rules have been broken. The speaker or president is assisted by a clerk, who is a permanent, non-partisan officer with a deep understanding of the rules and how they should be applied.

There are five sources of laws and rules that govern how the parliament goes about its work:

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<sup>19</sup> Rhodes 2005, 149.

- Statutes, which determine the powers and composition of each house, and its rights and immunities.
- Standing Orders, which lay down the most important source of procedures – although they can be dispensed with by granting ‘leave’ or permission for the house to deal with something in an informal way, or to set them aside through a motion to ‘suspend’.
- Sessional Orders enable the House to do certain things that are not covered by Standing Orders. For example, Sessional Orders are passed on the first day of business of each session, setting out matters such as the days and hours of sitting, the order of business and time limits for debates and speeches.
- Rulings are made by the chairs of each house (the speaker in the House of Representatives or the president in the Senate). They are often interpretations of the Standing or Sessional Orders.
- Custom and practice provide the rules the house applies when there are no rules set down; for example, the rights of the opposition to ask first questions, address in reply and respond to a government’s budget (budget reply).

#### Privilege

Each house of parliament has certain powers, rights and immunities that are essential for it to operate effectively. These are often referred to as ‘parliamentary privilege’. The powers, rights and immunities include:

- the power to regulate the house’s proceedings through standing rules and orders, which have the force of law
- the right of free speech in parliament without liability to action or impeachment for anything spoken therein, including immunity of members from legal proceedings for anything they say in the course of parliamentary debates
- the power to call for persons, papers and things and to delegate such powers to committees of the house
- immunity of parliamentary witnesses from being questioned or impeached for evidence given before the house or its committees
- the power to punish for contempt those that improperly intrude on its privileges or fail to follow its orders
- the power to regulate the conduct of its members, including the power to suspend or expel them for misconduct.

*Case example: Western Australia, 2018 – member resigns before he is expelled*

On 8 May 2018, the Procedures and Privileges Committee of the Legislative Assembly of Western Australia reported that a member of the house, Barry Urban, had committed a ‘gross and aggravated contempt of parliament’ and had misled the house on five occasions, and recommended that he be expelled. The committee, in

summary, found that Urban had misled the house about his right to wear medals, his educational qualification and his previous work history. Shortly after the report was tabled, Urban resigned from the Legislative Assembly.<sup>20</sup>

## Conclusions

The national and eight subnational parliaments in Australia have all adopted and adapted the Westminster system of government. Some Australian parliaments are unicameral. All are much smaller than the UK parliament, some having less than 25 members. All have different procedures for common mechanisms such as questions to ministers, petitions and the passage of legislation.

Despite their variations, the two most fundamental characteristics of Westminster government – responsible government and the ability of each house to ensure responsible government – remain at their core. Ministers are members of parliament and are responsible to the parliament for the matters that they administer. Cabinet, comprising the prime minister, premier or chief minister and other ministers, is also collectively responsible to the parliament. Each house of parliament has the power necessary to ensure that the executive remains accountable and employs devices such as estimates examinations, questions to ministers, orders for documents and general committee inquiries to achieve that accountability.

Parliament sits at the apex of our system of government. It is where the collective will of the people, expressed through elections, decides who governs us. It is where laws are made and the pros and cons of public policies are debated. While parliament is steeped in tradition, it is also an evolving institution, a reflection of who we are and what we wish Australia to be at a given point in time.

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# Electoral systems

Jill Sheppard

## Key terms/names

compulsory voting, consensual systems, district magnitude, majoritarian systems, mixed member proportional systems, party list voting, plurality voting, preferential voting, proportionality, representation, single transferable vote, voluntary voting, voter turnout

Electoral systems are a centrally important aspect of any polity. In the Australian context, the electoral system explains much of the country's stability, centrist policies and conservative political culture. This chapter introduces electoral systems broadly, with particular focus on the Australian context. How we vote is shaped by three key features of the electoral system: what ballot papers look like; how ballot papers are counted and legislative seats allocated; and when, where, and why we vote.

Electoral systems need to balance many different, and often competing, goals. The system we use to choose members of a legislature – that is, to elect legislators – largely dictates how many parties we have to choose from, the kinds of people who stand for election, the kinds of people who get elected and the kinds of policies they produce once elected. There is no aspect of any political system that is not deeply influenced by the fundamental electoral system.

In Australia, we take much about our electoral system for granted. We vote on Saturdays, so most voters do not have to take any time off work. The lines to cast a vote are short, compared to other countries' elections. Election days are – for the most part – enjoyable rituals. And if we do not want to vote on election day, we

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have ample opportunity to vote beforehand, either in person or by post. Both the prime minister and the opposition leader are often ideologically centrist; this is a fundamental feature of Australia's electoral system. While we may change prime ministers, our underlying political system is stable and strong. And we have our electoral system to thank.

The sections in this chapter take the following format. First, the chapter will discuss compulsory and voluntary voting. Australians are socialised into accepting and even embracing compulsory voting; that phenomenon will be examined here. Second, the chapter will consider the major types of electoral systems, focusing on consensual and majoritarian systems. It will discuss the advantages and disadvantages of each, using contemporary examples.

### Compulsory and voluntary voting

Eligible Australian voters are required by law to both enrol to vote and cast a ballot in all federal and state elections. In 1924, the parliament of Australia amended the *Commonwealth Electoral Act 1918* (Cth) to make voting compulsory and allow the federal government to penalise enrolled voters who fail to cast a ballot. In 1924, the penalty for non-voting was £2 (or approximately \$160 in 2018); in 2019, the penalty is \$20.

Among other clauses, the 1924 amendments that introduced compulsory voting state that:

1. It shall be the duty of every elector to vote at each election.
2. The Electoral Commissioner must, after polling day at each election, prepare for each Division a list of the names and addresses of the electors who appear to have failed to vote at the election.
3. ... within the period of 3 months after the polling day at each election, each DRO [Divisional Returning Officer] must:
  - A. send a penalty notice by post; or
  - B. arrange for a penalty notice to be delivered by other means to the latest known address of each elector whose name appears on the list prepared under subsection (2).<sup>1</sup>

This legislative measure was passed to address declining voter turnout in general elections – fewer than 60 per cent of registered electors cast a ballot at the 1922 Australian federal election. At a recent federal election (in May 2019), turnout was 92 per cent of the registered voter population, with the highest number of enrolled voters on record.<sup>2</sup>

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<sup>1</sup> *Commonwealth Electoral Act 1918*, section 245.

<sup>2</sup> AEC 2019a.

## Electoral systems

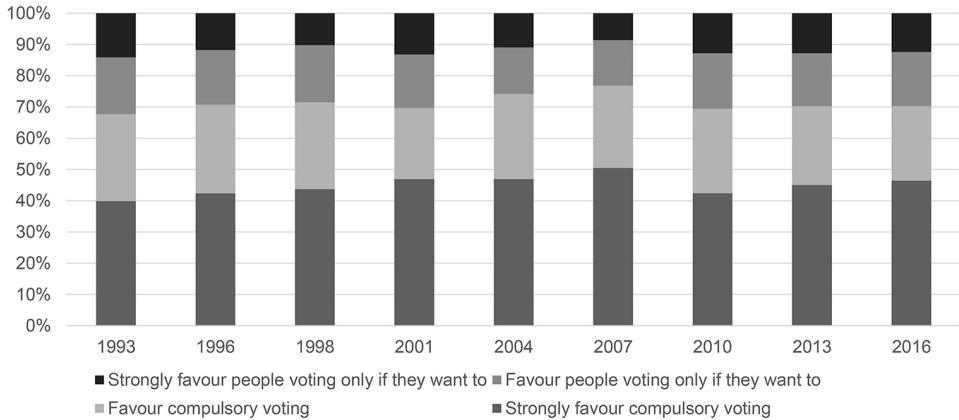


Figure 1 Response to the question ‘Do you think that voting at federal elections should be compulsory, or do you think that people should only have to vote if they want to?’. Source: Cameron and McAllister 2016.

As it compels voting, the Australian government has consistently legislated to make it as easy as possible. This has included weekend (Saturday) election days, expansive access to voter registration (although limited to a deadline of one week prior to an election), ample polling locations and short queues at polling booths. Recent reforms have expanded voters’ opportunities to cast a ballot before election day, either by mail or in person. By convention as much as legislative or institutional design, the Australian Electoral Commission (AEC) has worked to lower the burdens of voting within the constraints of maintaining electoral integrity (which explains its reluctance to introduce election-day registration opportunities, for instance).

Australian Election Study data since 1967 reveals remarkably high levels of support for compulsory voting within Australia. Early iterations of the study found that in 1967 and 1969 three-quarters of the population believed ‘compulsory voting is better’ than allowing people to vote if they want. By 1979, that number had fallen slightly, but 69 per cent of Australians still preferred compulsory to voluntary voting. In 1987, 33 per cent of Australians ‘strongly favoured’ compulsory voting, 31 per cent ‘favoured’ it, 3 per cent did not mind either way, 13 per cent favoured voluntary voting and 20 per cent ‘strongly favoured’ voluntary voting. Since that time, support for Australia’s compulsory voting laws has remained remarkably high (Figure 1).

### *How ‘compulsory’ is compulsory voting?*

While the vast majority of eligible voters in Australia fulfil their legal obligation to vote at each election, there are two means of easily abstaining from casting a valid vote. The first method is to attend a polling booth, either on or before

election day (or to request a postal ballot paper), receive a ballot paper and deposit that paper in the ballot box (or return it via post) without writing a valid vote on it. Many Australians do this intentionally, either leaving their ballot blank or marking the paper in ways that do not constitute a valid vote. Others cast a spoiled ballot unintentionally; Australia's comparatively complex ballot paper makes voting formally particularly difficult for voters with poor literacy or English-language proficiency.

The extent to which the *Commonwealth Electoral Act 1918* commands voters to (or to attempt to) cast a valid ballot is not entirely clear. Some commentators and political actors believe that voters only need to attend a polling booth (or request a postal ballot paper) and have their name marked off by an AEC employee; we will call this the 'attendance only' argument. Others argue that the law requires voters to place a ballot paper into a ballot box (or return a postal ballot paper to the AEC), whether it contains a valid vote or not – the 'blank ballot' argument. Others still argue that the legislation requires voters to intend to cast a valid vote (the 'valid vote' argument) – that the 'duty of every elector to vote' extends to expressing their preference for certain candidates over others.

The 'attendance only' argument is driven by the reality that, per the Act, the Electoral Administrator collects the names of enrolled voters who have not attended a polling station and had their attendance noted by AEC staff. These individuals are then subject to penalties for non-voting. The AEC has no means of penalising Australians who have their names marked off, walk to the polling booth and destroy their ballot paper without depositing it into the ballot box.<sup>3</sup> However, five separate instances of judicial review have found that the *Commonwealth Electoral Act 1918* requires voters to deposit a ballot paper into the box.<sup>4</sup>

The legality of submitting a blank ballot paper to fulfil the duty to vote in Australia federal elections is less clear. A strict reading of the Act suggests that 'to vote' requires a voter to mark their ballot paper in such a way as to reflect a preference for some candidates over others.<sup>5</sup> Again, however, the secrecy of the voting process means that voters who cast a blank (or otherwise informally marked) ballot paper are not able to be penalised. In practice, then, the 'blank ballot' argument stands; it is legal to submit a blank ballot paper in Australia, in as much as doing so cannot reasonably be punished under the relevant law. Moreover, casting a blank ballot is widely viewed as a legitimate form of political expression in Australia.<sup>6</sup> Lijphart notes that 'the secret ballot guarantees the right not to vote remains intact',<sup>7</sup> while Twomey argues that the secret ballot and compulsory voting as defined by the Act are essentially at odds.<sup>8</sup>

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3 See, for example, Twomey 1996.

4 AEC 2019b.

5 Twomey 1996.

6 Hill 2002.

7 Lijphart 1997.

8 Twomey 1996.



However, individuals suspected of casting a blank ballot paper could be required to confess to deliberately abstaining from voting and be penalised accordingly under the Act.<sup>9</sup> For instance, the Act requires the electoral commissioner to prepare a list of names of eligible voters who have not voted in a federal election; it is not far-fetched to imagine the AEC identifying individuals who confess on social media to deliberately casting a blank or otherwise informal ballot.

As of 2019, the AEC has shown little appetite for such proactive penalisation. Prior to the 2010 Australian federal election, former Labor leader Mark Latham publicly announced that he would be casting a blank ballot and urged others to do likewise.<sup>10</sup> The AEC told media outlets reporting on these comments that Latham did not contravene the Act, either by casting a blank ballot himself or by telling others that he would do so.

The second means of abstaining is to not enrol to vote. Electoral enrolment is compulsory under the *Commonwealth Electoral Act 1918*. The Act mandates that eligible voters must register themselves as voters with the AEC and maintain their enrolment by advising the AEC any time they change their residential address. Since 2012, the AEC has had legislative power to ‘directly update’ the electoral roll. This allows the AEC to identify eligible voters using data from other federal and state government agencies – vehicle registration and driver licencing authorities, welfare agencies and utility providers, for example – and automatically add them to the electoral roll. The AEC notifies all individuals who are automatically added to the roll, and these individuals have 28 days in which to object (although there are almost no grounds for valid objection, besides the individual’s details being incorrect).

These new powers have diminished Australians’ ability to ‘hide’ from the AEC – and from having to vote in elections – by never enrolling to vote. Eligible voters who are directly added to the roll are not fined for having abstained previously. In 2018, 96 per cent of eligible Australians were enrolled to vote. In 2011, before the direct update legislation was introduced, only 91 per cent of eligible Australians were enrolled. Among eligible young Australians (those aged 18 to 25), enrolment has increased from 73 per cent in 2011 to 85 per cent in 2018. Direct updating reversed a trend of declining voter enrolments generally, but particularly among young Australians. At the beginning of 2019, approximately two-thirds of all electoral enrolment in Australia occurs via direct update of the roll.

#### Majoritarian and consensual electoral systems

There are many common ways of categorising and describing electoral systems, but most approaches identify three broad types based on the type of government

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<sup>9</sup> Twomey 1996, 210.

<sup>10</sup> Pringle 2012.

they produce. Drawing on Norris and Lijphart,<sup>11</sup> we can distinguish between three electoral ‘families’: *majoritarian*, *mixed* and *consensual*. This section will begin by defining and describing majoritarian democracies and the types of electoral systems that produce ‘winner takes all’ governments. Next, it will discuss consensual democracies and the electoral systems that produce governments where two or more parties share power in coalition. Finally, it will discuss democracies that fall somewhere between majoritarian and consensual.

*Majoritarian (or ‘winner takes all’) systems*

In Australian federal elections, we vote for candidates standing for two different houses: the House of Representatives (lower house) and the Senate (upper house). Whichever party or group of parties wins a majority of seats in the House of Representatives is, according to the Constitution of Australia and convention since 1901, given the opportunity to form a government. Much more often than not, one party (or in the case of the Liberal–National Coalition [the Coalition], a formal alliance of parties) gets to form a government in its own right. Why? And relatedly, why do the Coalition and Australian Labor Party (ALP) have such a stranglehold on government in Australia?

The answers lie in Australia’s system of electing one person to represent each electoral division in the country. In electoral terms, Australia’s House of Representatives has a ‘district magnitude’ of one (i.e. one member per electoral division). For example, in the seat of Fenner in the Australian Capital Territory (ACT), the candidate who wins the majority of the vote is elected. A second-placed candidate – even if they attract 49.99 per cent of the final vote – wins nothing.

There are two specific electoral systems that produce majoritarian governments. The first is plurality, or ‘first past the post’, voting. This is the most straightforward way of voting, both in terms of the voter recording their preferred candidate and for electoral commission staff counting votes at the end of election day. Used in the UK and in most US elections, plurality voting requires voters to choose their favourite among all listed candidates. They do not need to rank candidates; depending on the jurisdiction they can use a cross, a number ‘1’ or a tick to designate their chosen candidate. The simplicity of plurality voting helps to include non-native-language speakers and those with low literacy in the electoral process.

On the other hand, plurality voting results in the most disproportionate electoral outcomes of any voting system. Imagine an electorate in London in which 50.001 per cent of voters choose one candidate, Jane Smith. In the unlikely event that all of Jane Smith’s votes were counted first, there would be no need to ever count the other 49.999 per cent of votes. In an electorate of 100,000 voters, 49,999 votes would not even need to be counted; we could declare the winner based on the total votes for Jane Smith. Therefore, 49,999 voters would have left their homes,

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11 Lijphart 1994; Norris 2004.

lined up and filled in and cast a ballot, just for it not to have mattered. Such votes are called ‘wasted votes’ in the political science literature; we regularly assess electoral systems on the basis of the percentage of wasted votes.

The Australian House of Representatives uses preferential voting, a less common majoritarian electoral system.<sup>12</sup> In a preferential system, voters mark their preferred candidate but also get to rank the other candidates. Voters’ ability to rank candidates in order can be seen as offering an alternative: if my favourite candidate (John Scott) is not popular, then I want my vote to go to my next preferred candidate (Jessica Shaw), and so on.

When voting closes at the end of election day, electoral staff count up all of the ‘1’ (i.e. first preference) votes. You might imagine a pile of ballot papers for each candidate, based on how many voters gave the candidate their number ‘1’ vote. Once this count is finalised, the candidate who received the fewest ‘1’ votes is eliminated, and their votes redistributed to whichever candidates received the number ‘2’ votes on these ballot paper. This continues until there are only two candidates left; you might have heard of ‘two-party preferred’ or ‘two-candidate preferred’ results – this is exactly that. After unpopular candidates are eliminated and voters’ preferences distributed, the final two candidates are the ‘two candidates preferred’.

Preferential voting has one distinct advantage over plurality voting, and one distinct disadvantage. The advantage is that very few votes are wasted; even if a voter casts a vote for the least popular candidate in any election, their vote will transfer to their next favourite candidate, and their next favourite candidate, and so on. Inevitably, this means that any election comes down to the two candidates whom voters are least likely to rank last, rather than the candidates they are most likely to rank first. However, this is quite a complicated electoral system (requiring voters to place a sequential number next to every candidate or else invalidate their ballot), which disadvantages voters from non-English-speaking backgrounds and those with low literacy. This trade-off is an ongoing challenge for electoral administrators.

In majoritarian systems – whether plurality or preferential – candidates (or parties) who are ideologically similar usually try to avoid ‘stealing’ votes away from each other. Imagine, for instance, two socialist-leaning parties nominating candidates in an American congressional district. If they do not co-ordinate, they might each win 26 per cent of the vote, leaving a conservative candidate to win with 48 per cent of the vote. For both socialist-leaning candidates, this is the least optimal outcome – they lose, and a conservative (i.e. the most ideologically distant) candidate wins.

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12 ‘Preferential voting’ is the commonly used term, while academics and researchers tend to describe this system as ‘alternative voting’, ‘ranked choice voting’ or ‘instant run-off voting’. These terms all describe the same system.

Instead, it makes sense for ideologically similar candidates or parties to work together. While it might be difficult to imagine political rivals working together – even if they hold very similar ideas or espouse similar policies – we assume that over the long term candidates and parties with similar outlooks will work together to exclude common rivals. ‘Working together’ might mean that one candidate or party withdraws from an election or decides not to nominate in the first place; it does not necessarily mean that they openly collaborate or campaign together.

This phenomenon is called ‘Duverger’s Law’, named for political scientist Maurice Duverger (pronounced Doo-ver-zhay).<sup>13</sup> It is as close to a ‘universal law’ as anything in political science, although it still has exceptions; for example, Canada consistently has three major parties despite its plurality voting system. But commonly, Duverger’s Law correctly predicts that majoritarian voting methods lead to stable two-party systems. The UK, USA and Australia are the most notable examples. When the loosely formed ‘Tea Party’ collective of conservative politicians gained prominence in the USA in 2009, the group’s greatest success was (albeit briefly) pulling the Republican party to the right, rather than becoming a genuine third force in American politics. Even a group of activists ostensibly opposed to the policies of the most ideologically similar party is better served by working within that party than competing against it.

The combination of compulsory and preferential voting has maintained a very stable two-party system in Australia. The two major parties – the ALP and the Coalition – have both enjoyed substantial periods in executive government and are ideologically proximate. At federal elections between 1949 and 2016, only twice has either major party defeated the other by ten percentage points or more (Figure 2). Even though many Australians might express dissatisfaction with the closeness of the parties and the way the political system works generally (and in 2019 political dissatisfaction is increasing in Australia), we overwhelmingly still turn up to vote, and we still mostly vote for one of the major parties.

Compulsory voting means voters at the far left and far right of the ideological spectrum are still incentivised to vote, even though the parties they end up voting for (after preferences are distributed) are a long distance from their own positions. This is one reason that the Australian Greens and – to a lesser extent – right-wing parties like One Nation have emerged in Australia, despite Duverger’s Law. For many voters on the left, the Greens are a far more palatable electoral option than the ALP, who – along with the Liberal Party – have converged on the centre of the left–right spectrum.

The electoral outcomes of majoritarian systems highlight both their major strength (political stability) and their major weakness (lack of ideological representation). The other major family of electoral systems – consensual systems –

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13 See Riker 1982 for a comprehensive discussion.

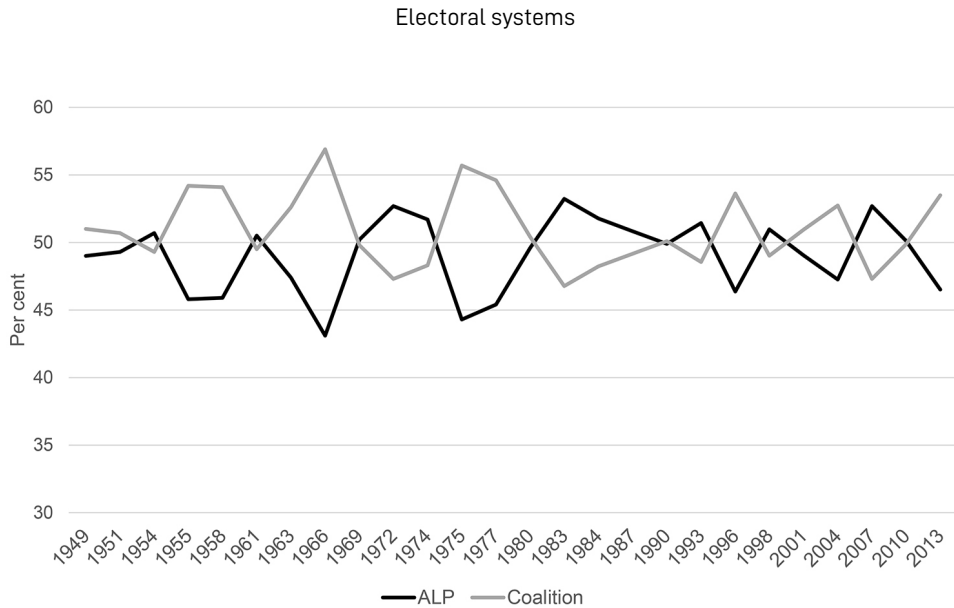


Figure 2 Australian House of Representatives – ‘two-party preferred’ election results, 1949 to 2016. Source: AEC 2016.

have the opposite problem: their key strength is in representing views across the ideological spectrum, but they often suffer from political instability.

#### *Consensual systems*

In almost all of South America, and northern, central and western Europe, voters elect more than one candidate to represent their electoral division. Instead of one local member, they might have two, three or more. The number of representatives in each district is called *district magnitude*, and while it may seem a small thing, it has a large effect on electoral outcomes, the number of parties that contest elections and win seats, the stability of governments and the kinds of policies that the legislature and government produce.

According to Duverger’s Law, parties with similar ideological positions will inevitably either merge or withdraw from elections to avoid stealing votes from each other and allowing ideologically distant parties to win. In *multi-member districts* (i.e. where the district magnitude is two or higher), ideologically similar parties or candidates can both nominate for election and plausibly be elected. They may still ‘steal’ votes from each other, increasing the total vote share of a common political opponent, but as the vote share required for winning is lower the chance of either or both candidates winning at least one seat is higher.

Imagine a local election in which five members are being chosen to represent one division. There are 20 candidates nominated: five centre-left candidates, five centre-right candidates, five candidates from the far left and five candidates from the far right. In a plurality (‘first past the post’) election, the far left and far right

candidates might withdraw to shore-up electoral support for the centre-left and centre-right candidates respectively. With five seats up for grabs, however, the more extreme candidates are more likely to stay in the contest.

In elections for the ACT Legislative Assembly, voters elect five representatives in each of the five divisions. The legislature is comprised of 25 representatives, with any party that can control a majority of members given the right to form a government. In the 2016 election, two divisions elected three ALP members and two Liberal members. One division elected three Liberal members and two ALP members. The other two divisions each elected two ALP members, two Liberal members, and one Greens member.

The final distribution of seats was 12 to the ALP, 11 to the Liberals and two to the Greens. Accordingly, neither major party was able to form a government in its own right, as neither had a clear majority of seats in the Assembly. Three plausible outcomes might have followed. First – and least likely, based on historical trends – the two major parties could have formed a coalition to govern together, with a 23 to two seat majority over the opposition Greens party. Second, the two Greens members could have joined the 11 Liberals to form a 13 to 12 seat majority over the opposition ALP.

Finally, and most likely given their ideological positions, the two Greens members could join the 12 ALP members to form a 14 to 11 majority over the opposition Liberals. This is precisely what happened, with the Greens and ALP leaders signing a formal pact to ensure the stability of the coalition government. The Greens promised to only support any motion of no confidence against the ALP-led government in the case of misconduct or corruption, and the Greens' leader was rewarded with a ministerial appointment. Similar ALP–Greens coalitions have governed in Tasmania, which uses an identical electoral system to the ACT.

This kind of electoral outcome, in which no one party wins a clear majority of seats, and government formation, in which two or more parties must work together to form a majority coalition, is common throughout much of the democratic world. Further, it often occurs on a much larger scale. In the 2017 German federal election, no party won a majority of seats in its own right. Incumbent Chancellor Angela Merkel's centre-right Christlich Demokratische Union Deutschlands/Christlich-Soziale Union in Bayern (CDU/CSU) party won the most seats (246 of 709), while the left-wing Sozialdemokratische Partei Deutschlands (SPD) won the second most (153 of 709). The third most successful party, with 94 seats, was the far right Alternative für Deutschland (AfD).

Initially, the CDU/CSU attempted to negotiate a coalition agreement with two much smaller parties, the semi-libertarian Freie Demokratische Partei (FDP) and the left-wing (but environmentally focused) Bündnis 90/Die Grünen (Greens). Negotiations failed when the three parties could not agree on immigration and energy policy positions. Eventually, the CDU/CSU and SPD formed a 'grand coalition' (the term used to describe the two largest parties governing together), with 504 of the Bundestag's 709 seats. This was the third time in the Merkel

government's four terms that the two parties had governed together. The parties share little common ideological ground, with each compromising considerably on a range of policies in order to produce a workable coalition agreement.

While the ensuing 'grand coalition' represents a large portion of the German left-right political spectrum, we also expect it to be relatively unstable. Either or both parties might choose to dismantle the coalition (likely causing new elections to be held), rather than continue to compromise on so many issues and support policies that are a long ideological distance from their usual position. Where parties are closer in terms of their ideological and policy preferences, they both (or all, in the case of larger coalitions) have greater interest in maintaining the coalition and staying in government.<sup>14</sup> We also know from the German case that individuals who had voted for candidates from 'grand coalition' member parties are less likely to vote for those parties in subsequent elections.<sup>15</sup> In other words, they punish parties for entering and governing in coalitions with other large, ideologically dissimilar parties.

In this way, consensual political systems face the opposite dilemma to majoritarian systems. They provide high levels of representation by opening up government and ministerial appointments to more than one party (and often to parties representing a large range of ideological views). On the other hand, parties can withdraw from a coalition agreement at any time, causing the government to collapse and new elections to be held. Accordingly, consensual systems can see more voters changing their mind between elections, and higher rates of government turnover and of parties emerging and dying.

While specific forms of majoritarian electoral systems are rather straightforward and few in number, there are many ways of electing consensual governments, with a large range of complexity. The most common electoral system producing consensual outcomes is called *party list voting*. In party list systems, parties are allocated a percentage of seats based on the percentage of votes they receive. The closer the percentage of votes won to the percentage of seats won, the more *proportional* a system is. Depending on whether an electoral threshold is used in a party list system, parties might be required to win a certain percentage of votes before they are awarded a seat. Further, the means by which 'remainders' are distributed (e.g. if a party wins 38 per cent of votes in a ten-seat division, they will only be allocated three seats and 8 per cent of the total votes are 'remainders') will contribute to system proportionality. However, these are secondary concerns.

Imagine an electoral division with ten seats vacant. Each party nominates a list of candidates for election, with a maximum of ten candidates (because, in the unlikely event that the party wins 100 per cent of the vote, there are only enough seats for ten candidates). The most successful party, the fictional Centrist Conservatives, wins 30 per cent of the vote and is awarded three seats. In a *closed party list system*, parties determine the order of candidates on the list, meaning

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14 Powell and Powell Jr 2000.

15 Banaszak and Doerschler 2012.

that the Centrist Conservative's three most preferred candidates are automatically elected. In closed list systems, parties and their members have a lot of control over the selection of candidates, and we expect that candidates will react by focusing on party members at the expense of their constituents (although little evidence exists to support this hypothesis).

In an *open party list system*, voters can vote for whichever candidate they like within a list. Often, open lists are randomised so that parties cannot indicate any preference for individual candidates. Each vote – despite ostensibly being cast for an individual candidate – is counted as a vote for the party first and the candidate second. If the Centrist Conservatives win 30 per cent of the vote, they still win three seats but the elected candidates are determined by the highest individual vote share. The result is an outcome that prioritises parties over candidates, but does not give parties total control over who is elected. Further, it makes elected representatives accountable to voters, rather than just their parties; a candidate who is a favourite of party officials will not be elected if voters do not know them or do not approve of them.

Beyond party-list systems, the other common means of electing consensual governments is *single transferable vote* (STV). STV is used to elect the Australian Senate, and variants of it are used to elect the ACT and Tasmanian governments. The key feature of STV is that voters can rank individual candidates. Once a candidate reaches a predetermined quota, any additional votes are transferred to the candidates ranked second on each ballot paper. In the Australian Senate, the quota is calculated by:

$$\frac{\text{The number of formal ballot papers cast}}{(\text{The number of senators to be elected} + \text{one}) \text{ rounded down} + \text{one}}$$

Votes additional to this quota are transferred at a reduced value, calculated as:

$$\frac{\text{Additional votes}}{\text{Number of votes for candidate}}$$

As with preferential voting in majoritarian systems, the least popular candidate is eliminated at the end of each round of counting. This candidate's votes are transferred to the next ranked candidates at the full value of the original vote (i.e. one vote = one vote). The form of STV used in the Senate is particularly party-centric: candidates are grouped by the party that they are representing and listed in the order predetermined by that party. Voters have the option of either ranking individual candidates in the order they choose (see Figure 3) or (the much less time-consuming option) ranking the parties as groups of candidates and automatically allocating their preferences per the parties' predetermined candidate ranking (Figure 4). Independent candidates can nominate for the Senate, and often choose



to be grouped with other independents in an 'unaligned' or similar group in order to maximise their collective vote share. The unnamed group in Figure 4 is an example.

Hare–Clark systems, such as those used in Tasmania and the ACT, do not give voters the option of ranking parties. Rather, candidates are grouped by party (or independent status) on the ballot paper, but voters must rank them individually (see Figure 5). Moreover, both Tasmania and the ACT use 'Robson rotation': the electoral commission prints as many versions of the ballot paper as there are candidates in the largest group, with the order randomised and each candidate appearing at the top of the list as often as every other candidate in their group. Accordingly, the parties have no power to promote particular candidates via the ballot paper; as in open party-list systems, candidates need to be known to and trusted by voters themselves.

#### *Mixed systems*

Some jurisdictions have successfully combined elements of majoritarian and consensual electoral systems. Although German elections have consistently produced coalition governments, the country actually has a semi-consensual electoral system. Voters get to cast two ballots: one for their local electoral division (i.e. a 'local member') and one vote for a party. They can vote for a local candidate representing one party, but cast a party vote for an entirely different party. In this way, parties are incentivised to provide both strong local representation and a clear, cohesive vision for the country. New Zealand has a similar system, allowing voters both an electorate and party vote (see Figure 6). Representatives elected from the electorate and party lists – with the latter appointed in a closed party list process – sit together in the unicameral (i.e. one house) legislature. This combination of systems is commonly called 'mixed member proportional', and many political scientists laud its combination of representation and stability.<sup>16</sup>

#### Conclusions

This chapter has explored how electoral systems can affect political stability, responsiveness, representativeness and citizen satisfaction. It has also examined compulsory voting, an aspect of Australia's electoral system that is often taken for granted, but one that is integral to the country's political culture, party system and electoral outcomes. The combination of Australia's majoritarian electoral system (in the federal House of Representatives, where government is formed) and compulsory voting has led to high levels of political stability and the long-term dominance of the major parties.

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16 Shugart and Wattenberg 2001.

Although compulsory voting is comparatively rare and imposes a small but important burden on all eligible voters, Australians overwhelmingly support it. This chapter has described strong public support for Australia's compulsory voting laws, the resulting high rates of voter turnout and the ease with which Australians are able to cast a vote. Finally, the chapter has given an overview of the two largest families of electoral systems – majoritarian and consensual – as well as those systems that combine elements of both. While majoritarian systems, such as plurality and preferential voting, provide political stability, they offer no representation for losing candidates and relatively little for opposition parties.

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Figure 3 Sample ballot paper from the 2016 Australian Senate election, using single transferable vote and displaying an example of 'below-the-line' voting. Source: Australian Electoral Commission.



Senate Ballot Paper  
State – Election of 6 Senators











**You may  
vote in one of  
two ways**

**Either**

**Above the line**

























By numbering at least **6**  
of these boxes in the order  
of your choice (with number  
1 as your first choice).

|   |   |  |   |   |  |          |
|---|---|--|---|---|--|----------|
| A   | B   | C  | D   | E   | F  | G        |
|  |  | <br> |  |  | <br> |          |
| <b>5</b>  | <b>2</b>  | <b>1</b>   |   | <b>3</b>  | <b>6</b>   | <b>4</b> |
| PARTY   | PARTY   | PARTY  | PARTY   | PARTY   | PARTY  |          |

**Or**

**Below the line**

By numbering at least **12**  
of these boxes in the order  
of your choice (with number  
1 as your first choice).

|   |   |   |   |   |   |  |   |
|---|---|---|---|---|---|--|---|
| PARTY   | PARTY   | PARTY   | PARTY   | PARTY   | PARTY   | PARTY  | UNGROUPED   |
|  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names |  SURNAME<br>Given Names<br>INDEPENDENT |
|  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names |  SURNAME<br>Given Names<br>INDEPENDENT |
|  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names<br>PARTY |   |  SURNAME<br>Given Names<br>PARTY |  SURNAME<br>Given Names |   |
|   |  SURNAME<br>Given Names<br>PARTY |   |   |   |   |  SURNAME<br>Given Names |   |

**SAMPLE**

Figure 4 Sample ballot paper from the 2016 Australian Senate election, using single transferable vote and displaying an example of ‘above-the-line’ voting. Source: Australian Electoral Commission.



## Electorate of Brindabella

**Number five boxes from 1 to 5 in the order of your choice**

**You may then show as many further preferences as you wish by writing numbers from 6 onwards in other boxes**

| A CANBERRA LIBERALS                | B THE ACT GREENS                     | C ACT LABOR                          | D BULLET TRAIN FOR CANBERRA        | E AUSTRALIAN MOTORIST PARTY             | UNGROUPED  |
|------------------------------------|--------------------------------------|--------------------------------------|------------------------------------|---|--|
| <input type="text"/> Andrew WALL   | <input type="text"/> Johnathan DAVIS | <input type="text"/> Joy BURCH       | <input type="text"/> Mark ERWOOD   | <input type="text"/> Kieran JONES-ELLIS | <input type="text"/> Michael LINDFIELD INDEPENDENT |
| <input type="text"/> Zed SESELJA   | <input type="text"/> Ben MURPHY      | <input type="text"/> Rebecca CODY    | <input type="text"/> Adam HENSCHKE | <input type="text"/> Burl DOBLE         | <input type="text"/> Calvin PEARCE INDEPENDENT     |
| <input type="text"/> Val JEFFERY   | <input type="text"/> Amanda BRESNAN  | <input type="text"/> Karl MAFTOUM    |                                    |   | <input type="text"/> Mark GIBBONS                  |
| <input type="text"/> Nicole LAWDER |                                      | <input type="text"/> Mick GENTLEMAN  |                                    |   |  |
| <input type="text"/> Brendan SMYTH |                                      | <input type="text"/> Mike KINNIBURGH |                                    |   |  |

**Remember, number at least five boxes from 1 to 5 in the order of your choice**

1

1

Figure 5 Sample ballot paper from the 2012 ACT Legislative Assembly election, using Hare–Clark voting with Robson rotation of candidate order. Source: ACT Electoral Commission.

## YOU HAVE 2 VOTES

### PARTY VOTE

*Explanation*  
This vote decides the share of seats which each of the parties listed below will have in Parliament. Vote by putting a tick in the circle immediately after the party you choose.

Vote for only one party

### ELECTORATE VOTE

*Explanation*  
This vote decides the candidate who will be elected Member of Parliament for the [insert name] ELECTORATE. Vote by Putting a tick in the circle immediately before the candidate you choose.

Vote for only one candidate

Vote here

Vote here

|  |                       |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
|--|-----------------------|-----------------------|-----------------|-----------------------|----------|-----------------------|----------|-----------------------|---|-----------------------|----------|-----------------------|-----|-----------------------|---------------------|-----------------------|-----------|-----------------------|--------------------|-----------------------|----------------------|-----------------------|-------------|-----------------------|------------------|-----------------------|-----------|-----------------------|--|-----------------------|------------|-----------------------|--------------|-----------------------|------------------|-----------------------|-----------------------|-----------------------|--|-----------------------|--|---|-----------------------|-----------------------|--------------------------------|-----------------------|------------------------------|-----------------------|-------------------------|-----------------------|--|-----------------------|--------------------------|-----------------------|-----------------------|-----------------------|--|-----------------------|--------------------------------|-----------------------|--------------------------------------|-----------------------|---|-----------------------|------------------------------|-----------------------|----------------------------------|-----------------------|---------------------------|-----------------------|------------------------------|-----------------------|------------------------------|-----------------------|--|-----------------------|--|-----------------------|--|-----------------------|--|-----------------------|
| <div style="display: flex; align-items: center;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg); font-size: small; margin-right: 5px;">[insert party logo (if registered) to the left of the name of the party.]</div> <table style="width: 100%;"> <tr><td>LABOUR</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>ACT NEW ZEALAND</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>NATIONAL</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>ALLIANCE</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>THE GREENS, THE GREEN PARTY OF AOTEAROA/NEW ZEALAND</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>NZ FIRST</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>ROC</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>CHRISTIAN DEMOCRATS</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>UNITED NZ</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>CHRISTIAN HERITAGE</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>McGILLICUDDY SERIOUS</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>TE TAWHARAU</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>REPUBLICAN PARTY</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>DEMOCRATS</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td> </td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>ADVANCE NZ</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>CONSERVATIVE</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>SOCIAL DEMOCRATS</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>SUPERANNUITANTS PARTY</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td> </td><td style="text-align: center;"><input type="radio"/></td></tr> </table> </div> | LABOUR                | <input type="radio"/> | ACT NEW ZEALAND | <input type="radio"/> | NATIONAL | <input type="radio"/> | ALLIANCE | <input type="radio"/> | THE GREENS, THE GREEN PARTY OF AOTEAROA/NEW ZEALAND | <input type="radio"/> | NZ FIRST | <input type="radio"/> | ROC | <input type="radio"/> | CHRISTIAN DEMOCRATS | <input type="radio"/> | UNITED NZ | <input type="radio"/> | CHRISTIAN HERITAGE | <input type="radio"/> | McGILLICUDDY SERIOUS | <input type="radio"/> | TE TAWHARAU | <input type="radio"/> | REPUBLICAN PARTY | <input type="radio"/> | DEMOCRATS | <input type="radio"/> |  | <input type="radio"/> | ADVANCE NZ | <input type="radio"/> | CONSERVATIVE | <input type="radio"/> | SOCIAL DEMOCRATS | <input type="radio"/> | SUPERANNUITANTS PARTY | <input type="radio"/> |  | <input type="radio"/> | <div style="display: flex; flex-direction: column; align-items: center;"> <input checked="" type="radio"/> <input checked="" type="radio"/> </div> | <div style="display: flex; align-items: center;"> <div style="writing-mode: vertical-rl; font-size: small; margin-right: 5px;">[insert party logo (if registered) to the right of the name of the candidate.]</div> <table style="width: 100%;"> <tr><td>ALLAN, Fred<br/>LABOUR</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>BAKER, Mary<br/>ACT NEW ZEALAND</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>DENNIS, Alistair<br/>NATIONAL</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>ELLIS, John<br/>ALLIANCE</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>GREIG, Tony<br/>THE GREENS, THE GREEN PARTY OF AOTEAROA/NEW ZEALAND</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>ILLIOT, Anne<br/>NZ FIRST</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>MARTIN, Hamish<br/>ROC</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>NEMETH, Elizabeth<br/>CHRISTIAN DEMOCRATS</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>OSBERT, Sebastian<br/>UNITED NZ</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>PEOPLES, Wendy<br/>CHRISTIAN HERITAGE</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>QUENTON, Oliver<br/>McGILLICUDDY SERIOUS</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>RAWIRI, Whare<br/>TE TAWHARAU</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>ROSS, Arthur<br/>REPUBLICAN PARTY</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>RUSCOE, Noel<br/>DEMOCRATS</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>SMITH, Eugene<br/>INDEPENDENT</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td>TULIP, Belinda<br/>ADVANCE NZ</td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td> </td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td> </td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td> </td><td style="text-align: center;"><input type="radio"/></td></tr> <tr><td> </td><td style="text-align: center;"><input type="radio"/></td></tr> </table> </div> | ALLAN, Fred<br>LABOUR | <input type="radio"/> | BAKER, Mary<br>ACT NEW ZEALAND | <input type="radio"/> | DENNIS, Alistair<br>NATIONAL | <input type="radio"/> | ELLIS, John<br>ALLIANCE | <input type="radio"/> | GREIG, Tony<br>THE GREENS, THE GREEN PARTY OF AOTEAROA/NEW ZEALAND | <input type="radio"/> | ILLIOT, Anne<br>NZ FIRST | <input type="radio"/> | MARTIN, Hamish<br>ROC | <input type="radio"/> | NEMETH, Elizabeth<br>CHRISTIAN DEMOCRATS | <input type="radio"/> | OSBERT, Sebastian<br>UNITED NZ | <input type="radio"/> | PEOPLES, Wendy<br>CHRISTIAN HERITAGE | <input type="radio"/> | QUENTON, Oliver<br>McGILLICUDDY SERIOUS | <input type="radio"/> | RAWIRI, Whare<br>TE TAWHARAU | <input type="radio"/> | ROSS, Arthur<br>REPUBLICAN PARTY | <input type="radio"/> | RUSCOE, Noel<br>DEMOCRATS | <input type="radio"/> | SMITH, Eugene<br>INDEPENDENT | <input type="radio"/> | TULIP, Belinda<br>ADVANCE NZ | <input type="radio"/> |  | <input type="radio"/> |  | <input type="radio"/> |  | <input type="radio"/> |  | <input type="radio"/> |
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| ROC  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
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| UNITED NZ  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| CHRISTIAN HERITAGE   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| McGILLICUDDY SERIOUS   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| TE TAWHARAU  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| REPUBLICAN PARTY   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| DEMOCRATS  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
|  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| ADVANCE NZ   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| CONSERVATIVE   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| SOCIAL DEMOCRATS   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| SUPERANNUITANTS PARTY  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
|  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| ALLAN, Fred<br>LABOUR  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| BAKER, Mary<br>ACT NEW ZEALAND   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| DENNIS, Alistair<br>NATIONAL   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| ELLIS, John<br>ALLIANCE  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| GREIG, Tony<br>THE GREENS, THE GREEN PARTY OF AOTEAROA/NEW ZEALAND   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| ILLIOT, Anne<br>NZ FIRST   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| MARTIN, Hamish<br>ROC  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| NEMETH, Elizabeth<br>CHRISTIAN DEMOCRATS   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| OSBERT, Sebastian<br>UNITED NZ   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| PEOPLES, Wendy<br>CHRISTIAN HERITAGE   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| QUENTON, Oliver<br>McGILLICUDDY SERIOUS  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| RAWIRI, Whare<br>TE TAWHARAU   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| ROSS, Arthur<br>REPUBLICAN PARTY   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| RUSCOE, Noel<br>DEMOCRATS  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| SMITH, Eugene<br>INDEPENDENT   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
| TULIP, Belinda<br>ADVANCE NZ   | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
|  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
|  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
|  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |
|  | <input type="radio"/> |                       |                 |                       |          |                       |          |                       |   |                       |          |                       |     |                       |                     |                       |           |                       |                    |                       |                      |                       |             |                       |                  |                       |           |                       |  |                       |            |                       |              |                       |                  |                       |                       |                       |  |                       |  |   |                       |                       |                                |                       |                              |                       |                         |                       |  |                       |                          |                       |                       |                       |  |                       |                                |                       |                                      |                       |   |                       |                              |                       |                                  |                       |                           |                       |                              |                       |                              |                       |  |                       |  |                       |  |                       |  |                       |

Final Directions

1. If you spoil this ballot paper, return it to the officer who issued it and apply for a new ballot paper.
2. After voting, fold this ballot paper so that its contents cannot be seen and place it in the ballot box.
3. You must not take this ballot paper out of the polling booth.

Figure 6 Sample ballot paper from a New Zealand national election, using mixed member proportional voting. Source: New Zealand parliament.

About the author

Dr Jill Sheppard is a lecturer in the School of Politics and International Relations at the Australian National University. Her research interests are elections and voting, political participation and public opinion, particularly in Australia but also internationally. She is an investigator on several major survey studies of Australian public opinion and behaviour.

# The Australian party system

Zareh Ghazarian

## Key terms/names

Australian Greens, Australian Labor Party, democratic socialism, electoral system, House of Representatives, labourism, Liberal Party, minor parties, National Party, nationalisation, One Nation, political parties, Senate, social democracy

Political parties are integral to modern political systems. Parties are organised bodies of individuals that nominate candidates at elections, advancing specific policy goals.<sup>1</sup> They play crucial roles in liberal democratic systems. Parties help to decentralise power as they compete for electoral support. They provide a link between government and society and, because they are comprised of ordinary citizens, advance the notion of government ‘for the people, by the people.’<sup>2</sup> Parties also contribute to the stability of political systems as they aggregate policy demands and provide alternative policy choices for voters.<sup>3</sup> Furthermore, parties are responsible for selecting candidates for election, forming government and opposition and ‘promoting and participating in public debates on major issues.’<sup>4</sup> Parties are seen as so important to modern liberal democracies that some have argued that political systems could not exist without them.<sup>5</sup>

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1 See Ghazarian 2015, 1. See also White 2006, 6.

2 See Parkin 2006, 3–24, and Katz and Mair 1995.

3 Ball and Peters 2000, 97.

4 Mayer 1991, 49.

5 Macridis 1967, 9; Schattschneider 1942, 1.



Party systems vary across liberal democracies. Party systems are characterised by the number of parties elected to parliament and forming government.<sup>6</sup> England, for example, can be seen to have a two-party system as the competition for executive control is between the Labour Party and the Conservative Party. The USA is also an example of a two-party system because of the domination of the Democratic and Republican parties.<sup>7</sup> European polities such as Germany and Italy have multiparty systems – a range of parties win representation to parliament and government is the product of parties forming coalitions.<sup>8</sup>

The electoral system (i.e. the method by which candidates are elected to parliament) influences the party system.<sup>9</sup> In the 1950s, political scientist Maurice Duverger hypothesised that in a system that elects a single member to represent each geographic area through a majoritarian electoral method, two parties will dominate.<sup>10</sup> In contrast, Duverger argued that proportional representation would foster a multiparty system.<sup>11</sup>

This chapter begins by examining the party system in the Australian House of Representatives. It explores the major parties that have consistently won representation in the chamber, highlighting how their origins, policy traditions and organisation continue to be important in contemporary politics. The chapter then considers the party system that exists in the Australian Senate. In doing so, it examines the evolution of the types of parties elected to the upper house.

#### Party system in the House of Representatives

The Australian Labor Party (ALP) and a series of non-Labor parties have dominated the House of Representatives since Federation.<sup>12</sup> In fact, it was not until 2010 that the first minor party won a seat in the chamber at a general election in the postwar period.<sup>13</sup>

The party system in the House of Representatives can be seen as an example of ‘tripartism’ if the Labor, Liberal and National parties are considered as separate entities.<sup>14</sup> While the National Party is numerically smaller than the other major parties, it has held government positions thanks to its coalition deal with the Liberals.<sup>15</sup> It is therefore considered to be part of the anti-Labor grouping in the House of Representatives, which means the party system in this chamber is an

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6 See Duverger 1967.

7 See Sundquist 1983.

8 Kreppel 2002.

9 See also Riker 1982.

10 Duverger 1954, 217.

11 Duverger 1954, 239.

12 Aitkin 1977; Jaensch 1989a.

13 The Australian Greens won the seat of Melbourne.

14 Duverger 1967, 235.

15 Woodward 2006.

example of a two-party system.<sup>16</sup> The origins, organisation and policy traditions of the Labor, Liberal and National parties differ and must be examined in order to understand the Australian party system.

#### The Australian Labor Party

The ALP is the oldest political party in Australia and one of the oldest trade union-based parties in the world. Its origins date back to the early 1870s. Labor is a mass party, which means that it allows ordinary citizens to join as members and, in theory, influence the party's decisions. The party's emergence was underpinned by unions responding to disputes regarding pay and conditions in the early 1890s. Concerned by the impact the economic recession of the time was having on their members, the unions held an Australia-wide strike. This strike, however, was defeated in every colony.<sup>17</sup>

Frustrated by these losses, the unions mobilised to create a new political party, the Labor Party, to stand candidates at elections and win government.<sup>18</sup> In doing so, the unions would gain direct representation in parliament and would be able to advance the interests of their movement. Labor consolidated its position across the colonies and succeeded in winning parliamentary representation at the first federal election in 1901. In 1904, it made history by becoming the first union-based political party in government as Labor leader John Christian Watson formed a minority government.

#### *Policy traditions*

Three broad policy traditions characterise the Labor Party today. The first is labourism, which became a prominent feature of the Hawke government during the 1980s.<sup>19</sup> A core characteristic of labourism is managing the economy in order to benefit salary earners.<sup>20</sup> The ALP's adoption of labourism led to arguments that it had abandoned its traditional role of advancing the interests of unions in Australian politics.<sup>21</sup> Labourism, however, was a response to changes in society and the economy that were also apparent in the union movement, which transitioned from being dominated by blue-collar to white-collar unions.<sup>22</sup> Labourism is still a significant feature of the Labor Party today. It can be seen in the party's acceptance that the private sector is critical to creating wealth.<sup>23</sup>

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16 McAllister 1982, 68.

17 Economou 2006.

18 Economou and Ghazarian 2010.

19 See Singleton 1990.

20 Manning 1992, 14.

21 See, for example, Jaensch 1989b.

22 Manning 1992, 27.

23 Manning 1992, 14.

The second policy tradition is democratic socialism, which regards capitalism as inherently exploitative. Democratic socialists believe that the primary means of addressing this exploitation is to allow the government to control economic resources. In particular, government ownership of private sector companies and industries (which is often referred to as nationalisation) is sometimes advanced as a policy goal by democratic socialists.<sup>24</sup>

The third policy tradition is social democracy, which is also based on the idea that capitalism can lead to exploitation. Unlike democratic socialists, however, social democrats are more accommodating of the private sector. They seek to address the potential exploitation caused by capitalism through policy measures, such as advancing welfare policies or regulation, rather than through nationalisation.<sup>25</sup>

These three traditions also underpin the factions in the Labor Party. Factions are like small parties operating within a larger party. There are two broad factional groupings in the Labor Party. The right-wing factions tend to adhere to labourism and social-democratic traditions, while the left-wing factions are more supportive of democratic-socialist objectives. Just like political parties, factions in the Labor Party have their own members, organisational structures, leaders and policy agendas.<sup>26</sup> The roles factions play are also similar to those of political parties. While factions can play a positive role in a party, sometimes the contest between factions for influence within the party can lead to destabilising power struggles.<sup>27</sup>

#### *Party organisation*

The national conference is the peak decision-making body of the ALP; each state also has a state conference. The purpose of the state and national conferences is to direct party policies and platforms. Decisions made at the national conference have a significant impact on the operation of the party. For example, in 2015 the national conference decided to aim to increase the number of female parliamentarians in the party to at least 50 per cent by 2025.<sup>28</sup> The Labor Party is hierarchical, however, in that the national organisation can intervene in and discipline state and territory branches.

All members of the Labor Party are expected to sign ‘The Pledge’, which is an oath of loyalty requiring members to work to advance the interests of the party and never stand against endorsed Labor candidates in an election. Furthermore, when elected to government, the caucus (the term that refers to the party’s parliamentary wing) is expected to implement the policies decided by the party’s membership. It

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24 Economou 2006.

25 Economou 2006.

26 See Economou 2006.

27 In 2010, for example, the factions withdrew support from Kevin Rudd and supported Julia Gillard to become prime minister. In 2013, the factions once again shifted their support and reinstalled Kevin Rudd to the prime ministership.

28 Peatling 2015.

is expected that Labor parliamentarians will never vote against caucus. If they do, they can be expelled from the party.<sup>29</sup>

#### *Labor Party splits and their impact on the party system*

While discipline and unity have been the goals of the Labor Party organisation, the party has undergone three significant splits. These splits affected the Australian party system, benefiting the non-Labor parties (as will be discussed below).

The first split was in 1916, in the midst of the First World War. Labor Prime Minister William Morris Hughes planned to introduce conscription through a referendum. His plans encountered resistance from many within the party, and the referendum was rejected by Australians. In response, Hughes and 23 of his caucus colleagues resigned from the Labor Party and joined members from the Fusion Liberal Party to create a new political force that was called the Australian National Federation, often referred to as the Nationalists. In doing so, Hughes created the main anti-Labor Party that would remain in government until 1923.

The Labor Party also split in 1931 over the issue of managing the failing economy during the Great Depression. The party split between those who supported Prime Minister James Scullin's plan to reduce government spending and those who argued that the government needed to spend on public projects, such as infrastructure, to stimulate economic activity.

The third split in the Labor Party is often known as the 'great split'. This came to a head in the mid-1950s, following several years of instability in the Labor Party in the aftermath of the Second World War over the issue of the perceived influence of communist forces in the union movement.<sup>30</sup> This deeply divided the party and contributed to its inability to win government for over two decades.

#### *Labor in government*

The first Labor government elected after the 'great split' in 1953 was led by Gough Whitlam. In 1972, Whitlam ended Labor's 23 years in opposition. The Whitlam government was characterised by major reforms, including the introduction of Medicare, free tuition for university students and greater emphasis on Indigenous land rights, as well as by decisions that offended the union movement, such as the reduction of tariffs by 25 per cent. The Whitlam government was dismissed by the governor-general in 1975, following a dispute between the House of Representatives and the Senate that resulted in the upper house refusing to pass the government's budget. The Whitlam government left an important policy legacy on the ALP as it demonstrated how the party sought to recast itself as one that was

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<sup>29</sup> See Economou and Ghazarian 2010.

<sup>30</sup> See Love 2005.

responsive to the needs of the broader electorate and not just those affiliated with the trade unions.

This approach was adopted by the next Labor prime minister, Bob Hawke, who led the party to government in 1983. Among the Hawke government's policy achievements was the Prices and Incomes Accord, which sought to constrain wage growth in return for government spending on the 'social wage' – which included education and health programs – and promised price restraint. Significant reforms included floating the Australian dollar, a shift towards privatising previously state-owned entities, such as Qantas and the Commonwealth Bank, and ensuring that the level of government spending would not exceed the national economy's growth rate. Hawke was replaced as prime minister by his treasurer, Paul Keating, in 1991.

The Keating government emphasised a number of issues that were prioritised by Prime Minister Paul Keating. In particular, Indigenous affairs, Australia's relationship with Asia and moves towards a republic were prominent during this government's time in office. The Keating government lost the 1996 election, marking the end of Labor's longest period in government. Labor would not return to government until 2007.

Between 2007 and 2013, the Rudd and Gillard governments were marred by internal instability. Kevin Rudd became prime minister in 2007 but was replaced by Julia Gillard – who became Australia's first female prime minister – in 2010. Gillard was replaced by Rudd once again in the lead-up to the 2013 election. This period of government implemented significant reforms, such as the introduction of the National Disability Insurance Scheme and a short-lived mechanism for carbon pricing.

### The Liberal Party

The Liberal Party is the latest in the line of non-Labor parties that have existed in Australia since 1901. In the years following Federation, non-Labor parties were either Free Traders, many of whom were from New South Wales (NSW), or Protectionists who hailed from Victoria. These groups were brittle and loosely organised coalitions of individual parliamentarians who, unlike Labor, did not have an extra-parliamentary wing from which to draw support. This instability motivated non-Labor politicians to find ways of creating a stronger organisational framework to support their parliamentary campaigns.<sup>31</sup>

Their efforts were strengthened in the aftermath of the first split in the Labor Party. William Morris Hughes and his colleagues from Labor joined the opposition to create the Nationalist Party. The party won the 1917 federal election and remained in government until 1929. During that time, the Nationalists entered into a coalition agreement with the Country Party for support in parliament.

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31 See Errington 2015.

The Labor split of 1931 again resulted in ex-Labor parliamentarians joining the non-Labor force to create a new political party – the United Australia Party (UAP). The UAP, led by former Labor minister Joseph Lyons, won the 1931 federal election and started developing extra-parliamentary structures in order to recruit members and raise money for campaigns. By 1939, however, the brittleness of non-Labor parties became apparent again. Lyons passed away and was replaced by Robert Menzies who, at the time, was a polarising figure. The UAP began to collapse when Menzies became part of Winston Churchill's British war cabinet in the midst of the Second World War. Menzies resigned as prime minister in 1941, and the party, led by William Morris Hughes, suffered a heavy defeat at the 1943 election.

Following yet another failed experiment by the non-Labor side of Australian politics, Menzies began plans for creating a new party. In weekly radio addresses throughout 1942, Menzies discussed a range of policy issues.<sup>32</sup> In one famous speech, he highlighted the need for a new political party that was not based around the union movement or the wealthy. In the 'forgotten people' speech, Menzies argued that the middle class, who he identified as including 'salary earners', professionals and farmers, were not being represented by the existing parties.<sup>33</sup> Menzies quickly galvanised elements of the UAP and other non-Labor forces and held two conferences, one in Canberra and the other in Albury, in order to construct a new cohesive political force. The modern Liberal Party was launched in 1944 as the result of these efforts. It would seek to win executive government by joining forces with the Country Party in a formal coalition.

#### *Party organisation*

Unlike the ALP, which has a centralised organisation, the Liberal Party is made up of autonomous state and territory divisions that are responsible for running the campaigns and day-to-day affairs of the party.<sup>34</sup> The federal division does not have the power to intervene in the affairs of state divisions. As a result, the Liberal Party, unlike Labor, cannot have centralised decisions made on matters such as the number of females in parliament. Another point that differentiates the organisation of the Liberal Party from that of Labor is that the Liberal Party does not allow any external entity, such as a union or business group, to join the party. Liberal parliamentarians also have greater autonomy from the party's organisation. They are not required to sign a pledge of loyalty and, in theory, are allowed to vote according to their conscience without being reprimanded by a central authority. In practice, however, voting against the party is rare. When it does occur, it is usually over issues on which the party allows parliamentarians to freely decide how

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<sup>32</sup> See Brett 2007.

<sup>33</sup> For the full speech, see Brett 2007, 21–27.

<sup>34</sup> The Liberal and National parties merged in Queensland in 2008.

to vote, such as same-sex marriage and euthanasia. These are often referred to as conscience, or free, votes in parliament.

The Liberal Party does not have formal factions, though groupings of like-minded individuals tend to form. In more recent years, groupings with competing views on social issues have become prominent. The party has a significant cohort of members who advance socially conservative positions, such as opposing same-sex marriage and Australia becoming a republic. They also tend to be sceptical of unilateral methods for addressing climate change. The party also has members who tend to favour more socially progressive ideas. This cleft, in addition to concerns about the popularity of the leader, has been at the core of instability in the Liberal Party following the defeat of the Howard government in 2007.

Policy making is also different in the Liberal Party in that the decisions made by the extra-parliamentary wing are not binding on the parliamentary wing. In effect, the Liberal parliamentary leader has the power to decide the party's policies. The power of the party leader, however, is tempered by the fact that they must maintain the support of their parliamentary colleagues to remain leader. As former Prime Minister John Howard noted, leadership is a 'gift of the party room'.<sup>35</sup> As a result, effective Liberal Party leaders must take the policy wishes of their colleagues and the extra-parliamentary wing into account to maintain support.

#### *The Liberal Party in government*

After winning the 1949 election, Robert Menzies led the Liberal Party to consecutive election victories until his retirement in 1966. Melding conservative and pragmatic elements was part of Menzies' repertoire. He committed Australia to supporting the USA in the Vietnam War and sought to ban the Communist Party of Australia. Pragmatism was evident in the Menzies government's approach to issues concerning economic policy, especially as it implemented protectionist policies to assist manufacturing and agriculture.<sup>36</sup> Menzies was replaced by Harold Holt, who went missing in 1967 after going for a swim in Portsea, Victoria. The Liberal Party selected John Gorton to replace Holt. Gorton, in turn, was replaced by William McMahon, who led the party to defeat in 1972, some 23 years after Menzies' initial success.

The Liberal Party, along with its coalition partner, returned to government in 1975, following the dismissal of the Whitlam government by the governor-general. Led by Malcolm Fraser, the party continued the tradition set by Menzies. The government was also progressive in other policies, such as supporting multiculturalism and welcoming Cambodian and Vietnamese 'boat people' who were fleeing the communist regimes in their home countries.<sup>37</sup>

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35 Howard 2006.

36 See Brett 2007.

37 Economou and Ghazarian 2010.

The Fraser government was defeated in 1983 and the Liberal Party spent 13 years in opposition, returning to power under the leadership of John Howard. Howard's government was similar to that of Menzies in that it pursued economic reform while advancing socially conservative policies.<sup>38</sup> Much to the chagrin of many rural and regional voters, the government succeeded in bringing about a national firearms agreement following the Port Arthur shootings in 1996. In 2000, it implemented the Goods and Services Tax. The government also introduced welfare measures, including a first homeowner's grant and a lump-sum payment to new parents, known as the 'baby bonus'. Border and national security became defining issues for the Howard government, especially in the aftermath of the terrorist attacks in the USA in September 2001.<sup>39</sup>

The Liberal Party was defeated in 2007 but was returned to power in 2013, with Tony Abbott as leader. Abbott's prime ministership combined elements of social conservatism and economic liberalisation. Abbott sought to reinforce Australia's links to Britain, supporting the monarchy by reintroducing knight and dame honours for Australians. The government also advanced economic liberalisation measures such as ending subsidies to vehicle manufacturers, which led to the eventual closure of car-making plants in Australia. The Abbott government disestablished policies of the previous Labor government, especially those concerning climate change.<sup>40</sup>

The Liberal Party demonstrated how the gift of leadership could be taken away by the parliamentary wing when, in 2015, it replaced Abbott with Malcolm Turnbull. As prime minister, Turnbull advanced a more socially progressive agenda. One of the most significant policy changes overseen by the Turnbull government was in 2017, when, after a national public vote, legislation was changed to allow same-sex marriage in Australia. The parliamentary wing again showed its capacity to choose leaders at will, replacing Turnbull with Scott Morrison in 2018, following a series of poor opinion poll results.

#### The National Party

The National Party (also known as the Nationals), which was originally known as the Country Party, is Australia's second oldest political party. It was created with the aim of representing the interests of rural and regional areas and contested its first federal election in 1919. The party was originally underpinned by the primary producers in the agriculture sector, which was responsible for providing a significant source of export income.

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38 See Hollander 2008.

39 See McKay, Hall and Lippi 2017.

40 See Talberg, Hui and Loynes 2016.



Like the other major parties, the National Party is a mass party and is open for individuals to join. Similar to the Liberal Party, the National Party comprises autonomous state divisions, while the role of the extra-parliamentary wing is to provide financial and campaign support for the parliamentary wing. The extra-parliamentary wing is also responsible for pre-selecting candidates.<sup>41</sup>

The party changed its name from the Country Party to the National Party of Australia in 1982 as it sought to appeal to Australians living in cities. The party has consistently tried to broaden its constituency as populations in cities have risen. Since the 1980s, however, the party has focused on contesting provincial and rural electorates as it has identified these as being its core constituency.

The National Party tends to avoid the divisions over policy goals apparent in the Labor and Liberal parties. While there is some tension between those primary producers focused on domestic consumption and those focused on exports, the party remains united on broad philosophical questions. It does, on the whole, advance a socially conservative agenda.<sup>42</sup> The National Party, like the Liberal Party, is also highly critical of the role of unions and their impact on economic activity.

The National Party (then known as the Country Party) first agreed to form a coalition with the Nationalists in 1923 in order to defeat Labor and wield executive power. Today, the National Party has a formal coalition agreement with the Liberal Party. As part of the agreement, the Liberal Party leader will be the prime minister, while the National Party leader will be the deputy prime minister. Another condition of the agreement is that the Liberal and National parties will not stand candidates against each other unless the seat in question is vacant or held by another party.

For all its history, the National Party has essentially been a minor party. It attracts a relatively small proportion of the primary vote and its appeal is limited to Queensland, NSW and Victoria. Unlike other minor parties, however, it has been able to consistently win seats in the lower house due to its ability to garner support in rural and regional areas. In doing so, the National Party has been integral to keeping its coalition partner in government and has, in turn, been given opportunities to directly influence national policy.

#### The Senate party system

While the major parties also win the bulk of the seats in the Senate, the party system in the upper house, unlike that in the House of Representatives, has undergone a significant transformation. Changes to the party system coincided with changes to the Senate voting system. The Chifley Labor government implemented a proportional voting system in 1948, in time for the 1949 election. The party system

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41 See Costar 2015.

42 See Costar 2015.

underwent further changes following additional reforms to the voting system implemented in 1983.

*The early minor parties: products of a major party split*

Following the introduction of proportional representation, the Democratic Labor Party (DLP) became the first minor party to win Senate representation in 1955. It was created as a result of the 'great split' within the Labor Party in the early 1950s. The party was so focused on stopping the ALP from regaining government that, once Whitlam won the 1972 election, its reason for existing ceased and the party collapsed.<sup>43</sup>

The next minor party elected to the Senate was the Australian Democrats in 1977. Following the 1975 constitutional crisis, there was a growing appetite within the electorate for alternatives to the major parties. The Democrats emerged in this climate. The party was led by Don Chipp, a former Liberal minister. Unlike the DLP, the Democrats sought to reinvigorate the role of the Senate as a house of review by using their position in the chamber to keep both Labor and the Liberal–National Coalition (the Coalition) accountable for their performance in parliament.<sup>44</sup>

This approach resonated with Australian voters, and the party maintained Senate representation from 1977 and 2007. During this time, it made a significant contribution to the Australian party system. It was the first parliamentary party to have a female leader, and it had innovative organisational arrangements, allowing all members to participate in deciding policy.<sup>45</sup> The party, however, appeared unable to adapt to the competition it was facing from newer minor parties that would have a significant impact on the Australian party system.

*Changes in the Senate party system: electoral reforms and contemporary minor parties*

The Senate voting system underwent major changes following the implementation of the Hawke government's reforms, which were introduced in 1983 but used for the first time at the 1984 election. The number of Senators per state rose from 10 to 12 due to the Hawke government increasing the number of House of Representatives seats to 148. This triggered the 'nexus' provision of the Constitution (section 24), which states that the number of representatives in the lower house must be approximately double that in the upper house. This also reduced the electoral challenges confronting minor parties as the proportion of the vote (or the quota) they needed to win a seat in an ordinary half-Senate election fell from 16.6

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43 The DLP was re-formed and succeeded in winning parliamentary representation in Victoria in 2006 and in 2010 the party won Senate representation. However, the 'new' DLP was qualitatively different to the party that existed throughout the 1950s and 1970s. For further discussion, see Ghazarian 2013.

44 Ghazarian 2015, 32–5.

45 Ghazarian 2015, 32–5.

per cent to about 14.4 per cent. A similar fall in the percentage of the statewide vote needed at full-Senate elections meant that it was now easier for minor parties to reach the threshold required to win seats in the chamber.

The Hawke government also introduced the group ticket vote (GTV), which simplified the method of voting for the Senate. Instead of having to number every box on the Senate ballot paper, citizens could now indicate their first preference by voting 'above the black line'. Their preferences would be distributed by the Australian Electoral Commission as per the instructions lodged by their preferred party.<sup>46</sup> These changes to the Senate voting system coincided with a significant change to the Senate party system, as shown in Table 1.

As Table 1 shows, there were just three minor parties elected in the 34-year period between the adoption of proportional representation in 1949 and the last election before the introduction of the Hawke government reforms in 1983. Following the implementation of these reforms in 1984, however, 13 minor parties won Senate representation in 32 years. The parties winning Senate representation post-1984 have also been qualitatively different to those elected in the period between 1955 and 1983, as will be discussed below.

#### *'Green' parties in the Senate*

The first minor party to win Senate representation following the Hawke government reforms was the Nuclear Disarmament Party (NDP) in 1984. The party opposed the Hawke government's pro-uranium mining policies and support for the broad foreign policies of the USA.<sup>47</sup> This was significant as it was the first time that a party advancing a specific policy agenda concerning environmental, conservation and humanitarian matters won Senate representation.

The party's candidate in Western Australia (WA), Jo Vallentine, won a Senate seat, but the party soon collapsed. Vallentine, however, advanced her party's agenda in parliament and was instrumental in creating the Vallentine Peace Group, which then morphed into the WA Greens. The WA Greens, which pursued similar goals to the NDP, continued to win Senate seats from 1990 onwards but was displaced as the pre-eminent 'green' party by the Australian Greens in the mid-1990s.

The Australian Greens combined a range of conservation movements, especially from the eastern states, to create a new party. Led by Dr Bob Brown from Tasmania, the new party was able to win its first Senate seat in 1996. It advanced a socially progressive agenda and emphasised cosmopolitanism, conservation, social justice and humanitarian issues.<sup>48</sup> By the time of the 2004 election, the WA Greens (which had been a separate political entity) had joined the Australian Greens confederation, and the party displaced the Australian Democrats as the third force

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46 See Green 2015a.

47 Quigley 1986, 14.

48 See Miragliotta 2006.

**Table 1 Minor parties elected to the Senate since 1949**

| Minor party                                  | Year first Senate seat won |
|--|----------------------------|
| Democratic Labor Party (DLP)                 | 1955                       |
| Liberal Movement                             | 1974                       |
| Australian Democrats                         | 1977                       |
| Nuclear Disarmament Party (NDP)              | 1984                       |
| Vallentine Peace Group                       | 1987                       |
| WA Greens                                    | 1990                       |
| Australian Greens                            | 1996                       |
| Pauline Hanson's One Nation                  | 1998                       |
| Family First                                 | 2004                       |
| 'New' DLP                                    | 2010                       |
| Liberal Democrats Party (LDP)                | 2013                       |
| Palmer United Party (PUP)                    | 2013                       |
| Australian Motoring Enthusiasts Party (AMEP) | 2013                       |
| Hinch Justice Party                          | 2016                       |
| Nick Xenophon Team                           | 2016                       |
| Jacqui Lambie Network                        | 2016                       |

in the Senate.<sup>49</sup> The party has been able to win and maintain representation in the House of Representatives at general elections since 2010 – something that has eluded many other minor parties in Australia – especially as it has been able to attract disenchanted Labor voters.<sup>50</sup> The party's strongest influence has been in the Senate, where it has often held the balance of power with other non-major

<sup>49</sup> Charnock 2009.

<sup>50</sup> The Greens won the district of Melbourne from Labor in 2010 and were able to defend the seat in subsequent elections. See also Bennett 2008.

party senators. In this role, the party has sought to influence government policy, especially on issues concerning asylum seekers, environmental conservation and the provision of state services such as health care and education.

*Non-'green' parties in the Senate*

Pauline Hanson's One Nation Party first won Senate representation in 1998. From the outset, One Nation focused on race and immigration issues.<sup>51</sup> One Nation can be regarded as a populist-right type party – it is led by a charismatic leader and proposes to solve complex social and economic problems through simple policy changes.<sup>52</sup> At the national level, the party won one Senate seat in Queensland in 1998, attracting the support of disaffected Coalition voters in rural and regional electorates. But it soon unravelled. One Nation's organisational structures were specifically designed so that its leader, Pauline Hanson, and not ordinary members, had the power to decide the party's policies. This led to much frustration and caused many members to leave the party. Pauline Hanson was also sentenced to jail for fraudulently registering One Nation.<sup>53</sup> Hanson soon left the party and contested subsequent state and federal elections as an independent.

By the time of the 2016 federal election, however, Hanson had rejoined One Nation. Campaigning on race and immigration matters once more, the party was able to win a total of four Senate seats (two in Queensland and one each in NSW and WA) thanks to the lower quota required to win seats in the double dissolution election (the quota needed to win a seat was half that required at a general half-Senate election). As in the past, however, One Nation experienced structural volatility, with some Senators resigning from the party. While Hanson continued to keep a high public profile in Australian politics, her party's impact on the national parliament has been hindered by organisational instability.

Other minor parties from the political right followed One Nation. Family First was elected to the Senate in 2004 but was only able to win a Victorian Senate seat because of a series of beneficial preference deals it had organised with other parties, rather than broad support. Family First positioned itself as an anti-Greens party. It focused on advancing socially conservative ideals, especially by opposing same-sex marriage and drug liberalisation. The party originated in South Australia (SA) and many members had links to Evangelical churches. While Family First could not win parliamentary representation in 2007 or 2010, the party did return to the Senate in 2013. The party merged with the Australian Conservatives, created by former Liberal Senator Cory Bernardi, in 2017.

In 2010, the 'new' DLP won Senate representation. The party, however, was qualitatively different to the version that was in the Senate throughout the 1950s

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51 See Ghazarian 2015, 117–8.

52 Economou and Ghazarian 2018.

53 Hanson was released less than three months later. For further discussion, see CMC 2004.

and 1970s. Like the Family First Party, the 'new' DLP was mobilised in order to advance a socially conservative agenda, especially opposing abortion and same-sex marriage. And like Family First, the party's ability to win a Senate seat in Victoria was due to a series of preference deals that allowed it to reach the quota. The party was unable to consolidate its Senate representation in subsequent elections.

The Senate party system started to change even more rapidly when, in 2013, three minor parties won seats in the chamber for the first time. These included the Palmer United Party, led by businessman Clive Palmer, and the Liberal Democrats. The Australian Motoring Enthusiasts Party (AMEP) also won Senate representation in 2013, even though its primary vote in Victoria as just 0.5 per cent. It was able to win a Senate seat thanks to preference deals it had made with other parties.

The Senate party system continued to diversify in 2016, even though the Turnbull government made changes to the voting system in response to the 2013 results. The GTV was removed, and voters had to preference at least six parties above the line or at least 12 candidates below the line. This reform was designed to stop minor parties that won a very small primary vote from gaining Senate representation through preference deals.

Despite these changes, three new parties won seats in the Senate, though it should be remembered that this was a double dissolution election. The Hinch Justice Party and the Jacqui Lambie Network were joined by the Nick Xenophon Team, which won three seats in the Senate in addition to the lower house seat of Mayo in SA.

#### Accounting for minor parties' rising support and success

The level of support for minor parties in both houses of parliament has experienced peaks and troughs, but has been on the rise since 2007. In Senate contests, for example, the primary vote for minor parties rose from less than 10 per cent in 1949 to the highest rate yet of just under 35 per cent in 2016.<sup>54</sup> A key reason for the rise in support for minor parties is that many new parties have advanced policies that have responded to changes in society and to the broad policy debate. For example, the NDP and the Greens attracted the support of voters who felt strongly about nuclear disarmament, environmental conservation and social justice, while One Nation attracted the support of those concerned about race and immigration.<sup>55</sup>

Furthermore, there has been a change in the goals of minor parties contesting elections. In particular, minor parties that have been able to win seats since the 1980s have promised to use their parliamentary representation to bring about legislative change to areas they consider as important. They contrast with minor parties elected to the chamber throughout the 1950s and 1970s, which were created as a result of

<sup>54</sup> See Green 2018, 199.

<sup>55</sup> See Economou and Ghazarian 2018; Ghazarian 2015.

splits in a major party and sought to either stop the Labor Party from regaining government (in the case of the DLP) or use their position in the Senate to act as a watchdog on the major parties (in the case of the Democrats). The approach of contemporary minor parties has resonated with voters, who are willing to support them and allow them to wield significant power in the legislature.

There has also been a rise in the number of minor parties contesting elections. In 1984, for example, there were just 18 parties contesting the election, but in 2016 there were 56, most of which were standing for the Senate.<sup>56</sup> The proliferation of new parties also means that voters have even greater choice, which contributes to the apparent fall in support for the major parties.

## Conclusions

There are two distinct party systems in Australia. The first is in the House of Representatives, which is still dominated by the major parties. The origins of the major parties show how they were able to attract electoral support (labour organisation in the case of the ALP, primary producers in the case of the National Party and conservative-oriented non-labour voters in the case of the Liberal Party). Their longevity has been underpinned by the voting system used to elect candidates to the lower house and reflects Duverger's hypothesis that single-member electorates that use a majoritarian method of electing candidates will produce a two-party system.

In contrast, the party system in the Senate has undergone significant changes since the adoption of proportional representation in 1949. Moreover, the type of minor party elected to the chamber has transitioned – contemporary minor parties winning seats are advancing specific policy agendas. While the major parties continue to win a large portion of seats in the Senate, in recent years the use of proportional representation has contributed to the creation of a multiparty system that had been hypothesised by Duverger. The rising vote for minor parties shows that voters are also supporting greater diversity, especially in the upper house. This changing party system has implications for national policy, especially when governments must rely on support from these parties to pass legislation.

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<sup>56</sup> See Green 2015b.

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# The public sector

Isi Unikowski and John Wanna

## Key terms/names

departments and statutory agencies, digital era governance, federalism, new public governance, new public management, Northcote-Trevelyan, not-for-profit sector, private sector, public sector, public value governance, Westminster system or tradition, Woodrow Wilson

Without reading on, try to guess when the following was written:

There is scarcely a single duty of government which was once simple which is not now complex; government once had but a few masters; it now has scores of masters ... at the same time that the functions of government are every day becoming more complex and difficult, they are also vastly multiplying in number.<sup>1</sup>

Does it sound familiar? In fact, these comments were made in a classic of public administration literature in 1887 by Woodrow Wilson, who would become the US' 28th president. Leaving aside the archaic expression, these comments could have been made today. It is remarkable how frequently speeches by ministers and public servants, and academic books and articles, mention the increasing complexity of the public sector and the demands upon it.

Unikowski, Isi, and John Wanna (2019). The public sector. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Wilson 1887, 200. Woodrow Wilson was an accomplished practitioner of public administration.

The contemporary relevance of Wilson's comments suggests that nothing about 'the public sector' is ever settled for very long. There are no issues regarding its scope, size, reasons for being, ways of working, norms, values and practices that cannot be and have not been contested and debated since the emergence of the modern state.

Accordingly, rather than summarising a number of static terms and technical definitions that can be found in any standard textbook on the subject, which we would then have to qualify with caveats, this chapter considers the most important questions about the public sector and why these keep coming up. It then shows how the answers to these questions have changed over time, and how they will continue to do so.

What is the public sector?

The question of what differentiates the public sector from the private and community, or not-for-profit, sectors lies at the heart of perennial debate around the world about what governments should be doing and, consequently, how big their public sectors should be.

The easiest way to start is simply to define the public sector as the outcome of a set of choices citizens and governments make about two questions:

1. What do citizens and communities want and need in terms of public provision?
2. How should governments respond to these expectations?

The public sector's role and shape can be seen as a collective approach to the things governments want to provide or impose, including the allocation of resources, production of goods, delivery of services and regulation of activity in society.

More specifically, we can view these functions of government in terms of the economic, political and/or legal purposes they fulfil:

- Economic purposes are achieved by governments performing a rebalancing function in society by reallocating resources through taxes and charges (e.g. redistributing from the rich to the poor or aged through social welfare and the age pension).
- Governments are often required to provide goods and services that the market has failed to produce or cannot easily produce. Street lights, public roads, utilities, telecommunication, navigation across air and sea and, historically, broadcasting and postal services are all delivered by public provision because private markets will not generally supply goods or services that benefit people regardless of whether they have paid for them.
- Governments sometimes produce monopolistic goods and services (e.g. water, electricity and sewerage) because the private sector may not provide them at a price or at a level of efficiency that is in the public interest. Another reason for this provision is the long-term investment required and the extensiveness of the costs associated with supply.

- Governments are compelled to act as a community protector or insurer of last resort (that is, providing protection against risks that are too great for the private sector to handle); for example, dealing with terrorism and national security, conducting wars, dealing with natural disasters and epidemics and combatting major crises affecting society, such as financial or economic crises.
- Turning to the public sector's political purposes, governments respond to electoral pressures and voter preferences (for more benefits, say, or for extended services). Political parties channel voter preferences and campaign for office on policy platforms, with winning parties expected to deliver on their agendas.
- The public sector fulfils important legal functions and provides administrative services to ensure the rules and stability a functioning society needs are in place. These include frameworks for the operation and enjoyment of liberty and property, particularly law enforcement, courts and tribunals and bodies protecting human rights. They also include regulatory bodies governing matters such as safety, commerce and consumer protection.

In summary, comments on the role of the public sector that were made two decades ago by the US organisational theorist Herbert Simon are still relevant today: 'At a point in history where cynicism about democracy and distrust of government are rampant, we need to remind ourselves daily that government performs a myriad of tasks that are vital to the health and future of our society.'<sup>2</sup>

Nevertheless, government decisions about what goods and services to supply, how to do so and how much of particular goods should be supplied are *always* contestable, even in the case of core public goods like defence, the courts, the police, public health, education and so on. These are matters that the political system determines, just as private markets determine how much of a private good is produced and sold. Below we will explore some of the ways such issues have been dealt with in the past.

## Public sector governance

The questions of how much control governments can and should exert over the public sector, to what ends and in what ways have shaped much of the public sector's history. The discussions in the following sections of the appropriate size of the public sector and how its structures and functions have changed over time reflect the different views and values on which these questions about roles, purposes and resources turn.

Two important sets of principles provide the norms and conventions that guide and shape the structures and functions of the public sector. The first may be broadly referred to as the *Westminster* tradition of public service. This tradition can be traced

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2 Simon 1998, 2.

back to the 1854 Northcote-Trevelyan Report to the British government. This report essentially established the Westminster tradition of a professional and non-partisan public service recruited on merit rather than patronage. The Westminster tradition had a formative effect on the development of the Australian colonial governments at the time, and, subsequently, on the Commonwealth government.<sup>3</sup>

The tradition includes the principle that the public service is accountable to ministers, and ministers are individually and collectively accountable to parliament and the electorate. The Westminster tradition clearly distinguishes between the political role of ministers, who 'have the last word' on all matters for which they are responsible, and a bureaucracy that is non-partisan, in that it can only be appointed and removed according to legislated rules, works loyally for whoever occupies the ministry, regardless of their political stance, and strenuously avoids active political participation.<sup>4</sup> The principle of ministerial control over the departments and agencies in their areas of responsibility is a pre-eminent factor in determining how the public sector is structured, a matter we return to in the next section.

Australia's *federal* system provides the second set of norms and principles governing the public sector. The public sector operates at three levels of government: the national government, state and territory governments and municipal governments. Officials work with one another within each of these levels, and across the Commonwealth–state and state–local levels to develop and implement government policies and programs, particularly when national policy frameworks are needed to deliver economic, environmental or other reforms. The federal system shapes the way policies are designed and implemented by the three levels of government, including how, when and to what extent the different levels of government engage with one another, how responsibilities for policy design and delivery are allocated, how performance is measured and reported and, perhaps most importantly, how the resources for these functions are collected and distributed.

### The structure of the public sector

The relative independence of a public sector organisation from the government of the day is a fundamental design principle inherited from the Westminster tradition.<sup>5</sup> Within that context, the structures, forms and functions of the public sector at any time reflect government choices about what public goods and services to supply, to what extent and in what manner. Accordingly, the way public sector bodies are set up and function varies considerably along a continuum from the

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3 Parker 1978, 349.

4 Rhodes 2005. The risk of politicisation, or even the appearance of such, has become greater in the age of social media and the erosion of traditional public servant anonymity. The changing ways in which public officials engage with the distinction between 'politics' and 'administration' and the blurring between them is explored in Alford et al. 2017.

5 O'Faircheallaigh, Wanna and Weller 1999, 87.

big, traditional departments that implement government policies in areas like immigration, transport, the environment and so on, through to 'corporations' controlled by governments but largely managed on a commercial basis.

The core public sector consists of departments and agencies that are under *direct* ministerial control. They are mainly financed by taxation, which they redistribute through subsidies, grants and welfare payments. They may also provide a range of services directly and free of charge (e.g. defence, education, health) or at prices well below what the commercial market would charge (e.g. subsidised housing).<sup>6</sup>

Governments may also set up *semi-autonomous* statutory agencies and corporations for reasons of efficiency, to drive innovative delivery or because the agency needs to be able to make decisions free of ministerial intervention (such as the Australian Taxation Office, the Australian Competition and Consumer Commission or state government environment protection agencies). In practice, statutory agencies are still subject to political and financial control by the government of the day because they depend on the government for their resources, their governing legislation can always be repealed or amended and individuals who fill statutory offices are usually appointed by the government.<sup>7</sup>

Public corporations are agencies that operate *independently* of government and may have their own sources of revenue in addition to direct public funding. They may compete in private markets and make profits. Public corporations include the Reserve Bank, Australia Post, the National Broadband Network, state government housing schemes and state-owned bodies that operate power and water supplies.<sup>8</sup>

Any neat delineation between the public and private sectors is challenged by increasing collaboration between governments, the private sector and the not-for-profit sector<sup>9</sup> in designing and delivering goods and services. Australian governments have a long history of relying on the not-for-profit sector, and in some cases the private sector, to assist with the provision of services and to contribute to their design. Governments partner with the not-for-profit sector for the delivery of a range of community, employment, education, health and other services through contracted networks.

Since 2000, governments have shifted towards this mode of delivering services. As a result, total government funding for the not-for-profit sector has increased significantly since 2000. Almost half (46 per cent) of Commonwealth and state/territory government agencies surveyed in 2010 reported that not-for-profit organisations made up three-quarters or more of the external organisations providing services on their behalf.<sup>10</sup>

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6 ABS 2015.

7 Goldring 1980, 355.

8 ABS 2015; United Nations et al. 2009.

9 That is, organisations that are neither commercial nor government bodies, do not earn profits for their members and perform a range of charitable purposes.

10 Productivity Commission 2010, 300.

In the private sector's case, governments transfer risks to companies in return for financial rewards and incentives, through public–private partnerships for the delivery of social and economic infrastructure or through contracted delivery of public programs and services. Withers describes the '*partnership* between market, state and community in the provision of the foundations of national life [as] the key to the Australian Way in the institutional construction of the nation'.<sup>11</sup>

How big should the public sector be?

The size and role of the public sector are logically interdependent. In practice, however, the two issues are often separated, particularly in criticisms of how much governments are spending. Consequently, the size and cost of the public sector is often controversial, even though actual employee numbers have been stable for many years. The appropriate size of the public sector is regularly tested through reviews conducted by Commonwealth, state and territory governments, particularly when incoming governments argue 'the financial cupboard is bare'.<sup>12</sup> Reductions in the public sector at all three levels of government frequently occur in response to such reviews and/or to periods of international fiscal crisis. They may take the form of direct cuts, such as 'razor gang' reviews that outsource services to the private sector, or result from long-term reforms in governance that aim to keep a check on government size and outlays, such as expenditure review committees, efficiency dividends and employment restrictions.<sup>13</sup>

Criticisms of the public sector's size, in terms of outlays and staff numbers, are generally based on the effects of government intervention on the economy. These criticisms are generally based on four key considerations:

- why governments are providing services that the public could choose to pay for in the private sector
- the requirement for higher taxation and government borrowing to fund public sector organisations and the goods and services they provide, which may act as a brake on economic growth
- the possibility of 'crowding out' – when businesses find it harder to obtain finance to invest because government borrowing increases interest rates, making private borrowing more expensive
- government services are often criticised for being inefficient, such as when Commonwealth and state government responsibilities overlap in particular areas of policy.

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11 Fabian and Breunig 2018, 236 (emphasis in original).

12 Weight 2014, 5.

13 At the Commonwealth level, an efficiency dividend that reduces funding for departmental expenses by a factor of between 1 and 4 per cent based on assumed productivity increases has been in place for 30 years (Horne 2012, 2).

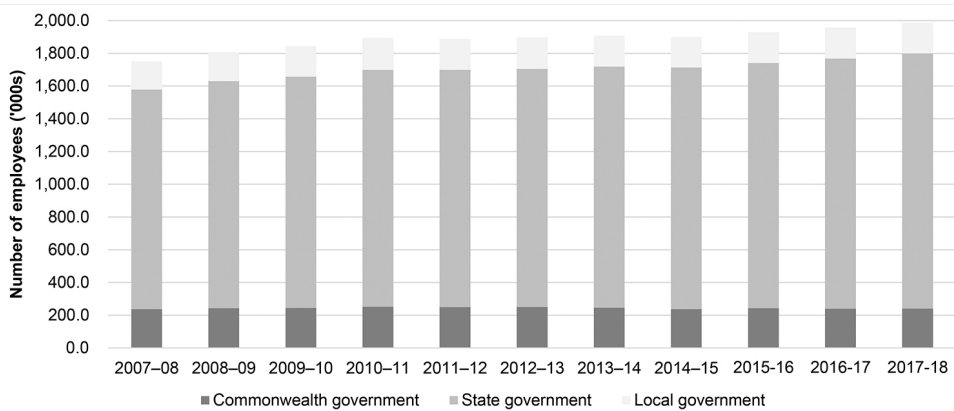


Figure 1 Jurisdictional composition of public sector employment. Source: ABS 2018.

An overview of trends in public sector employment over the past decade is provided in Figure 1. This figure shows that there has been an increase overall in the number of public sector employees, from 1.75 million in 2007–8 to 1.99 million in 2017–18.<sup>14</sup> However, as a proportion of the total workforce, public sector employee numbers declined from 21 per cent in 1990 to 16 per cent by the end of the 1990s, where they have remained, apart from a slight rise in 2007–11. Public sector workers currently constitute 15.5 per cent of the workforce.<sup>15</sup>

The relative proportions of those employed across the three levels of government have also remained stable over the decade. However, the compositions of the Commonwealth and state/territory public sectors are quite different, reflecting the significantly greater role the state and territory public sectors play in direct service delivery to individuals, communities and businesses. Only around one-quarter of the Commonwealth public service works on service delivery.<sup>16</sup> Conversely, the proportion of those in the states and territories working on service delivery tends to be much larger (around 80–85 per cent), with a correspondingly smaller number working on policies for these governments.<sup>17</sup>

At around 36 per cent of gross domestic product (GDP), general government spending in Australia is not large by Organisation for Economic Co-operation and Development (OECD) standards;<sup>18</sup> this proportion has not changed much over the preceding two decades. By themselves, however, statistics on the size of and trends in public sector employment and expenditure tell us very little, compared with how ideas about the appropriate role for governments change over time and are reflected

14 ABS 2018.

15 ABS 2017.

16 Australian Public Service Commission 2018.

17 Data sourced from state government workforce statistics.

18 OECD 2018. Commonwealth government outlays alone represent around 25.4 per cent of GDP (Commonwealth of Australia 2018).



in the public sector's functions. (We will look at this issue more closely in the next section.)

As we have noted, the vast majority of public sector employees are engaged in direct service delivery, particularly through the education, health and police/justice sectors. This reflects the public's continuing expectation that 'the service state' will provide a range of services directly, as one component in a 'hybrid mixture of part public, part private activities, delivery chains that do not remain in neat boxes or organisational settings'.<sup>19</sup>

An overview of recent public sector changes

Developments in how the public sector works reflect the way Australians and their elected representatives decide the following questions, and how those answers change over time:

- What are most efficient, effective, equitable and sustainable ways for governments to design and deliver services and programs that respond to the needs and wants of their citizens, businesses and communities?
- How should that response involve the private and not-for-profit sectors, and citizens themselves?

The 'traditional' public sector was arguably the dominant model for the public sector in Australia and New Zealand to the end of the 1980s. This model was characterised by a number of features derived from the Westminster tradition, including:

- a politically neutral public service controlled by and accountable to ministers
- government departments that directly provide services, with little outsourcing and competition, integrating policy and operational functions, from the design of policies through to their implementation and delivery 'at street level'
- in order to perform these functions effectively and efficiently, departments organised in standardised managerial hierarchies in which power and authority are increasingly invested in correspondingly smaller echelons of senior officials (as distinct, say, from markets and networks)<sup>20</sup>
- departments largely designed to implement political directions in discrete, manageable and repetitive tasks, conducted according to prescribed rules and technical expertise.<sup>21</sup>

However, during the 1970s and 1980s, governments were increasingly faced with economic globalisation, demographic pressures, the role of supranational economic and political institutions and concerns about the size and cost of their public

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19 Wanna, Butcher and Freyens 2010, 31.

20 Osborne 2010, 8.

21 Stoker 2006, 45.

sectors. Consequently, they also questioned their capacity to manage these issues through traditional bureaucratic structures and methods.<sup>22</sup> Perceptions that the public service had become ‘a self-contained elite exercising power in the interests of the status quo but without effectively being accountable for its exercise’<sup>23</sup> led to reviews and changes that aimed to restore ministerial control.

The most important set of public sector practices and values that emerged in the 1980s and 1990s is collectively described as the *new public management* (NPM), and is still highly influential today. NPM aimed to make government more efficient and effective, based on ideas derived from economic theory and business management techniques. Its proponents called for the public sector’s monopoly over policy making and service delivery to be removed or at least reduced. (The Howard government’s minister for administrative services applied a ‘yellow pages’ test: if a business was listed in the business phone directory, the minister argued that there was no reason why it should be provided by government.)<sup>24</sup>

Instead, the NPM’s objectives included giving users more choice in the services they received, making more use of market-type competition, and foreshadowed a program of widespread privatisations and the separation of service delivery agencies from their parent policy departments. They called for a greater focus on financial incentives and transparent performance management in public sector organisation.<sup>25</sup> The classic NPM text *Reinventing government*<sup>26</sup> coined the phrase ‘steering, not rowing’ to advocate less involvement by the public sector in actually delivering services and more focus on policy making and on the choice and design of such services.<sup>27</sup>

A summary of NPM’s characteristics, such as ‘disaggregation, competition and incentivization’,<sup>28</sup> is provided in Table 1. In practice, NPM was not always adopted for the same reasons and did not always consist of the same policy mix when implemented.<sup>29</sup>

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22 Other potential explanations of NPM point to more endogenous developments within bureaucracies themselves, such as the impact of new technologies that allowed work to be refashioned along private sector lines.

23 Royal Commission on Australian Government Administration (1976), quoted in Wanna and Weller 2003, 87.

24 Aulich and O’Flynn 2007, 160.

25 Hood 1991, 5.

26 Osborne and Gaebler 1992.

27 Denhardt and Denhardt 2015, 11; Osborne and Gaebler 1992, 32; Pollitt 2002, 276.

28 Dunleavy et al. 2006.

29 Dunleavy et al. 2006; Hood 1995; Pollitt 2002; Pollitt 1995.

**Table 1 Comparison of the new public management (NPM) and traditional public services**

| <b>Dimensions of change under NPM</b>           | <b>Under older forms of bureaucracy</b>  | <b>Under NPM</b>   |
|---|--|--|
| Organisational disaggregation                   | Uniform public service-wide rules; centralised controls over pay and staffing  | Disaggregation of units in the public sector to enhance management and focus accountability; separately managed, corporatised units with delegated control over resources; disaggregation of traditional bureaucratic organisations into commissioning and delivering agencies, the latter related to the 'parent' by a contract or quasi-contract |
| More competition in the public sector           | Public service organisations have semi-permanent roles; unified organisational chains of delivery and responsibility   | More use of contracts and outsourcing; competition within the public sector and with the private sector  |
| Adoption of private-sector management practices | Emphasis on a distinctive 'public service ethic', particularly its non-pecuniary value set, permanency and standard national pay and conditions; citizens and businesses seen as clients and beneficiaries | Adoption of private-sector reward systems, greater flexibility in hiring and rewards; term contracts, performance-related pay and local determination of pay and conditions; emphasis on service quality; citizens and businesses are rational consumers and therefore 'customer responsiveness' is paramount                                      |
| Discipline and frugality in resource use        | Emphasis on institutional continuity and stable budgets  | 'Doing more with less': an active search for alternative, less costly ways to deliver public services; reduced compliance burden for business  |
| Hands-on professional management                | Emphasis on ' mandarins', <sup>30</sup> with traditional skills in making, but not administering, policy; adherence to rules paramount   | 'Let the managers manage': highly visible managers wielding discretionary power  |

| <b>Dimensions of change under NPM</b>          | <b>Under older forms of bureaucracy</b>   | <b>Under NPM</b>   |
|--|---|--|
| Explicit standards and measures of performance | Qualitative, implicit standards and norms based on trust in a professional public service                                   | Tangible and reportable performance measures and indicators on the range, level and content of services to be provided; goals, targets and indicators of success, preferably expressed in quantitative terms; greater transparency in resource allocation; adoption of activity- or formula-based funding and subsequently accruals accounting |
| Greater emphasis on output controls            | Public organisations controlled by top-down 'orders of the day', as determined by senior management; emphasis on procedures | Public organisations controlled through resources and rewards allocated according to pre-set output measures; emphasis on results  |

Source: adapted from Hood 1995, Hood 1991 and Pollitt 1995.

#### The legacy of NPM

In the 1980s and 1990s, the adoption of NPM policies by both Labor and Liberal–National Coalition governments led to widespread privatisation of government assets and services and commercialisation of many of those remaining in public hands (for instance, some services introduced user charging).<sup>31</sup>

As Figure 2 suggests, the impact on employee numbers during NPM's heyday was more in the order of a redistribution from the Commonwealth to state and local governments, with only a minor downsizing in total numbers in the 1990s, from 1.73 to 1.45 million, and then an increase to just under 2 million currently.<sup>32</sup> Commonwealth employees declined from 23 to 12 per cent of the total public sector workforce between 1990 and 2017, while the proportion of state government employees rose from 67 to 78 per cent.

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- 30 'An efficient body of permanent officers ... possessing sufficient independence, character, ability and experience to be able to advise, assist, and to some extent influence those who are from time to time set over them' (from the Northcote-Trevelyan Report, quoted in Caiden 1967, 383).
- 31 Aulich and O'Flynn 2007; O'Faircheallaigh, Wanna and Weller 1999, 66. See Hughes 2003 for an extended discussion of the rationale for and against the establishment of public enterprises as a particular segment of the public sector.
- 32 It is similarly unclear whether outsourcing had a significant effect on public sector expenditure and employment in other countries (e.g. Alonso, Clifton and Díaz-Fuentes 2015, 656).

## The public sector

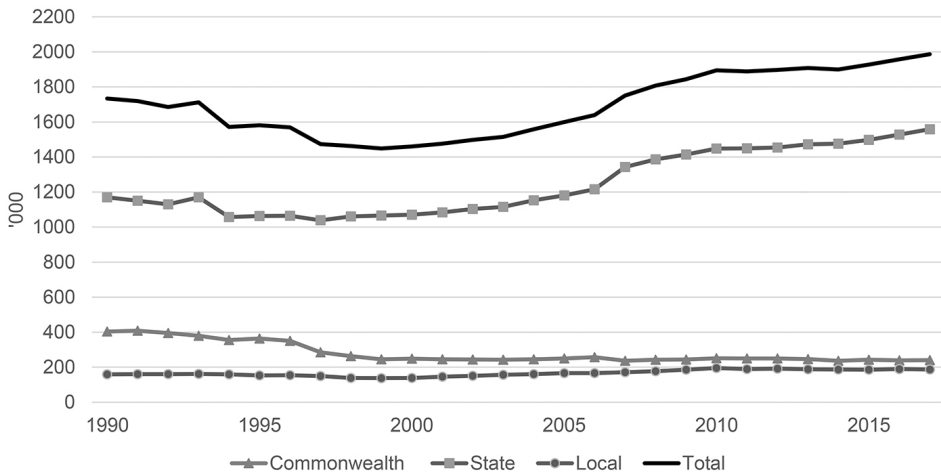


Figure 2 Public sector employee numbers, June 1990–2017. Source: ABS 2018.

The period of NPM largely replaced the highly centralised state, with its monopoly over policy design and delivery, with a new set of relationships between government and other societal sectors and players. These relationships gave governments a choice between traditional delivery via public sector organisations, market and quasi-market approaches, and networks,<sup>33</sup> and hence greater flexibility in responding to the demands and expectations of citizens, who had been given choice and agency as ‘customers’ by NPM.

By the mid-2000s, NPM was losing its status as the predominant paradigm for public sector organisation. Key elements of NPM had been reversed or stalled, amidst concerns about the fragmentation of the public sector and its services and loss of accountability and capability summed up as ‘the hollowed-out state’.<sup>34</sup> Criticism of NPM highlighted its narrow focus on efficiency and its implication that ‘the public nature of what governments do is not particularly important’.<sup>35</sup>

Indeed, NPM’s emphasis on ‘management’ appeared to some analysts to ignore the profound economic and social changes that had given rise to public sector reform in the first place. These developments required more fundamental changes to how political institutions and public expectations interacted and were managed.<sup>36</sup>

Nevertheless, many elements of NPM are still in place, such as performance management and budgeting and market-based competition for some services. The

33 Peters and Pierre 1998.

34 Bevir and Rhodes 2011; Dunleavy et al. 2006, 468.

35 Peters 2017, 607. See Halligan 2007 for a discussion of the particular causes of departure from and reaction to NPM by governments and bureaucracies in Australia and New Zealand.

36 Kettl 2000. See Pollitt and Bouckaert 2011, 15 for an overview of the difficulties involved in assessing the impact of NPM and its successors.

introduction of market-style mechanisms to procure services via competitive tendering processes led to greater co-option of the not-for-profit sector in delivering public policies. The latter is now a major partner of the public sector, to an extent, Alford and O'Flynn argue, that 'would have been unrecognizable' forty years ago.<sup>37</sup>

#### Beyond new public management

No single paradigm of public sector reform has emerged to dominate the early decades of the new century in the way NPM dominated the closing decades of the last. Instead, a number of influential and interrelated directions are emerging that respond to, and in some cases reverse, NPM's main tenets.

A new model of public sector organisation that Osborne and others have called the 'new public governance' recognises that the complexity of citizens' needs is not well handled by NPM's separation of policy and service delivery agencies and widespread adoption of contractual service delivery through the private and not-for-profit sectors.

The 'whole of government', collaborative and customer-centric approach that responds to these problems forms part of a broader movement towards the new public governance. This is characterised by the public sector working in partnership and through networks with other sectors to deliver public services, on the one hand, and multiple processes allowing for input from interest groups, citizens and stakeholders to inform policy making, on the other.<sup>38</sup> This pluralistic model encompasses the concept of 'co-production',<sup>39</sup> in which policy making and delivery is managed and governed not only by professional and managerial staff in public agencies but also by citizens and communities.<sup>40</sup>

*Digital era governance* harnesses new technologies in service delivery, administration and communications and the use of social media by bureaucrats and the public for policy input and service delivery. Proponents of digital era governance are critical of NPM's tendency to encourage, as they see it, 'management attitudes obsessed with intermediate organizational objectives rather than service delivery or effectiveness'.<sup>41</sup> Advocates argue that information technology is transforming the relationship between governments, bureaucracies and the public through the reintegration of public services; needs-based, simpler and more agile

37 Alford and O'Flynn 2012, 8; Butcher and Gilchrist 2016, 5.

38 Greve 2015, 50; Osborne 2010, 9.

39 Or, in some views, has led to its revival as a cost-cutting aspect of NPM (Nabatchi, Sancino and Sicilia 2017, 767).

40 Meijer 2016. Although not untroubled, the introduction of Australia's 'My Health Record' and the role of the Australian Capital Territory's Citizen's Jury in devising a new Compulsory Third Party Insurance Scheme are contemporary examples of such co-production.

41 Dunleavy et al. 2006, 471–2.

whole-of-client service delivery; and the generation of greater productivity through digitisation.<sup>42</sup>

*Public value governance* (PVG), the third dominant model of public sector organisation and development, is less about the means by which governments govern. Rather, it focuses more on the political and institutional processes by which public values are identified and inform strategy making, performance management and innovation.<sup>43</sup> One of PVG's most notable advocates argues that the public sector creates public value in two ways: first, by producing goods and services that have been prioritised by the political system, and second, by establishing and operating institutions that are 'fair, efficient and accountable', meeting the expectations of citizens (and their representatives).<sup>44</sup>

PVG requires public sector managers to do three things: help to identify and define the public interest; secure support for the creation of new public goods and services from political and other stakeholders (such as interest groups, clients, businesses and the general community); and obtain the operational and administrative resources required for the task.<sup>45</sup>

#### Public sector values

No discussion of the public sector is complete without examining the distinctive set of values and norms that guide its work. It may be useful to think of such public sector values in terms of why the public sector exists, what it does and how it does this. Longstanding political and cultural conventions and traditions (derived from both the Westminster model and the federal system) provide the public sector with a purpose and justification for its services to the community.

The values that inform *what* the public sector should do or produce at any time reflect culturally embedded 'outcomes values',<sup>46</sup> such as 'growth' or 'diversity', that dominate political debate over long periods but do change from time to time. For example, NPM valued private-sector delivery, while cutbacks to welfare programs reflected higher values being attributed to private, as opposed to collective, solutions to income inequality. These values inform the immediate policy priorities of incumbent governments and serve as evaluation standards or design guides for particular policies.<sup>47</sup>

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42 Dunleavy et al. 2006, 480; Greve 2015, 51.

43 Rainey 2014, 64; Greve 2015, 50.

44 Moore 2014; Moore 1995, 53. See also Mazzucato's work on the state's contribution to public value through its role in creating and supporting private markets and innovation (Mazzucato 2016; Mazzucato 2013).

45 Alford and O'Flynn 2009, 173. You may be interested in the debate between Rhodes and Wanna (2007) and Alford (2008) on whether this role is compatible with the Westminster tradition of ministerial responsibility.

46 Stewart 2009, 27.

47 Bozeman and Johnson 2015, 63.

A third set of values, often and explicitly linked to the Westminster tradition,<sup>48</sup> guides *how* the public sector carries out its tasks and is managed. These values apply both to public servants' personal conduct and to their organisations' work as a whole. They may be expressed as rules about responsiveness, impartiality, procedural fairness, efficiency and ethical behaviour, but may also (controversially) extend to how public servants should engage with social media.<sup>49</sup> These values are generally set out in enforceable values statements and codes of conduct, which frequently form part of the relevant public service legislation.

NPM reforms led to some important changes to the relationship between public servants and ministers. In the Westminster system, this relationship had been characterised by permanent careers, particularly for senior public servants, impartial support for the government of the day and a degree of anonymity that allowed public servants to advise their political masters freely.<sup>50</sup> In the 1980s, these arrangements changed in a number of Western democracies, including Australia and New Zealand. Department heads were placed on limited contracts that were subject to performance appraisal, and the anonymous role of confidential ministerial adviser was weakened as special ministerial advisers and private consultancies played an increasing role in advising on developing policy.<sup>51</sup>

## Conclusions

The present context of economic, demographic, social and technological disruption is generating calls for a profound rethinking of the public sector's purpose, dimensions and approaches, in Australia and internationally. Such debates, informed by the values we have identified above, are integral to the very nature of the public sector. As Jocelyne Bourgon, a leading Canadian public servant and public service innovator, sums it up, the task is 'to rediscover the irreplaceable contribution of the state to a well-performing society and economy and articulate a concept of that state adapted to serving in the twenty-first century'.<sup>52</sup> As we have shown, questions about the nature of that task, how it is to be performed and by whom, remain constant for citizens, governments, and for those, like you, who are studying the public sector:

- What do citizens and their communities want and need?
- What role should governments play in responding?
- What are most efficient, effective, equitable and sustainable ways for governments to design and deliver that response?

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48 Rhodes, Wanna and Weller 2008, 469.

49 Quirk 2018, 104; Stewart 2009, 29.

50 Hood and Lodge 2006.

51 Hood 2000.

52 Bourgon 2017, 625.



- How should that response involve the private and not for profit sectors, and citizens themselves?
- What capacity will governments and their public administrations need to carry out this work, and what values will the public sector need to display and champion?

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# Media and democracy

Mary Griffiths

## Key terms/names

Australian Communications and Media Authority (ACMA), audience segmentation, convergence, digital disruptions, fake news, Federal Parliamentary Press Gallery, fourth estate, global technology platforms, hyper-mediation, journalist–source relations, mediation, mediatisation, mixed economy, ownership, partisanship, public interest journalism, public relations and spin, regulation and self-regulation, remediation

News media is no longer thought of as a monolithic, homogeneous institution or actor reflecting the real world from a position of objectivity and authority. News still strongly determines and anchors public attitudes but the ‘hypodermic needle’ explanation of communication – which holds that mass media messages are simply transmitted from a sender to a passive receiver – is no longer persuasive. Consumers’ characteristics (e.g. age, gender, sexual orientation, ethnicity, literacy and so on), as well as the contexts of media consumption, shape audience reception. For media researchers and students, the key questions endure: who is speaking, to or for whom, through which conventional formats, on which platforms and for what purposes?

In transitional times for media, answering these questions is not easy because the material conditions under which media organisations once operated have altered with the advent of disruptive technologies. Widespread consumer participation, information abundance, hybrid content and converging platforms and

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formats are only part of the picture. Harvesting of consumer data makes the targeting of specific demographics possible, for commercial and political purposes. Inevitably, political culture and journalism are changing, with questions regularly arising about Australian media's democratic role.

This chapter covers the transformation of media and its impact on political culture. Mediation and the pre-digital democratising communication technologies – print, radio and television – are the initial topics discussed. The chapter then maps the Australian media sector. The mixed economy approach that Australia takes to media policy and regulation is summarised, before the chapter returns to the free press concept, concluding with an overview of parliamentary media and the potential problems inherent in journalist–source relations.

## Mediation

Mediation is the core of inquiry in media scholarship. It involves analysis of the whole or of selected aspects of the material processes of production, distribution and reception of media content, and the construction of specific audiences, institutions, practices and technology uses.

Mediation theory argues that representations of the world do not unproblematically reflect its realities. Representations are treated as constructs formed by sets of practices, codes and compositional conventions from which we, as consumers, actively make meanings. For example, different levels of familiarity with the basic television news format – authoritative 'talking heads' (hard news, sport, weather), remote vision, voice-overs – veil or partially obscure the myriad forms of agency and necessary elements that are required to construct a 'seamless' flow of news.

Viewers' cues about potential meanings are derived from camera positions, live reports versus automated feeds, or editing processes that, for example, truncate a serious policy announcement to give prominence to an amusing but tangential moment. News readers' modes of address are regularly fine-tuned by internal research on viewer profiles; thus the seemingly inconsequential interactions between co-hosts help audiences attribute significance to a story.

Mediating processes combine technical, journalistic, political, ethical, editorial, commercial and platform- or audience-driven elements. Whatever the technology (print, telegraph, camera, radio, television, satellite, the internet, mobile, smart), media are never just mirroring reality. Their forms are implicated in the existence and survival of cultural, economic and political systems. Thus, questions of power and agency in mediation processes are critical when considering media.

## Mediatisation

Theorists of media argue about the nature and impact of mediation processes, and about the logics, rituals and patterns evident in what is called the mediatisation of politics. The concept is complex but useful. It focuses on media and politics as separate but interrelated domains that are directly and indirectly capable of shaping major societal change. Mazzoletti and Schulz discuss the usurping of political power, seeing media as a potential threat to democracy.<sup>1</sup> For Strömbäck, media logics compete with the logics of politics.<sup>2</sup> He defines four distinct stages in the power dynamic between actors. Mediatisation is also being explored by theorists in relation to other institutions. It requires more analysis than is possible here. Asking precise questions about how – specifically – media transforms political action is always useful.<sup>3</sup>

## Technologies: from print to digital disruptions

Communication technology plays a generative role in anchoring normative societal attitudes in any era. Print technology commanded the flow of political information through centuries of development in Western democracy, just as, from the mid-20th century onwards, radio and television helped form mass political literacies – the ways people understand the world and understand politics. Now, digital and smart technologies are replacing or colonising heritage media.

*The decline of print news*

Print newspapers began to lose their advertising revenue, and then their audiences, to the internet towards the end of the last century. Print news' dominance has now gone, along with the shared ritual of reading the paper at set times of the day – a practice that had helped individual citizens in a nation-state to see themselves in a 'deep horizontal comradeship' with others<sup>4</sup> and to form civic competencies.

Though many print mastheads vanished,<sup>5</sup> some survivors remain politically influential. *The Australian*, for example, has a relatively low circulation, compared to past years, but retains a capacity to influence Australian news and commentary. Roy Morgan recorded a rise in readerships for cross-platform news for the year from March 2017.<sup>6</sup> Sydney-based news topped the list: *The Sydney Morning Herald* and *The Daily Telegraph*. Melbourne's *The Age* and *Herald Sun* came next, followed

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1 Mazzoleni and Schulz 1999.

2 Strömbäck 2008.

3 Couldry 2008, 374.

4 Anderson 1983, 6.

5 Kirkpatrick 2012.

6 Roy Morgan 2018.

by the two national papers, *The Australian* (which, with a 4.9 per cent rise, had increased its Sydney readership) and *The Australian Financial Review*.

### *Digital disruptions*

The internet changed everything for print and broadcast media. Media and consumers were finally free of the scheduling limitations imposed by print presses and analogue technology.

But the digital editions of print mastheads face severe competition for eyeballs from local, national and global online competitors, and especially from start-ups with no infrastructure renovation costs. Infotainment, clickbait and ads flourish, competing with front-page 'hard news' – stories on politics or international affairs. News rooms employ online content producers and use tracking tools to detect even minute changes in reader engagement, while journalists are decreasing in number. In hard economic times, investigative journalism is expensive. There are gains and losses to digital disruption. It can be generative and initiate innovation, but it can destroy legacy media and its workforces if they cannot rapidly adapt.

Across the hybrid digital platforms, media content is created, repurposed and often categorised as 'premium content' behind subscriber paywalls. Journalists adapt stories while events are unfolding or compete for a unique selling point after tracking interest in trending stories. The editorial capacity to add and withdraw digital content may also be partly responsible for the pressure on journalists to publish first and amend later. The volume and apparent liquidity of news content could potentially unsettle a reader's grasp of the chronology and significance of events.

Free digital newspapers, on the other hand, have increased the number and diversity of voices being heard. A tutelary attitude is discernible in the accumulation of hyperlinks to earlier or complementary news stories, and in reader aids such as the 'story so far' column. 'Opinion' writers no longer rely on prior knowledge or experiences shared with readers, as their arguments can be supplemented by links to supporting content. Journalists now also self-reference or draw attention to colleagues' work.

### *Hyper-mediation*

Information flows 24/7 on free-to-air and subscription-only platforms, viewed in private on a range of fixed and mobile devices and as the background noise and vision in public spaces. The intense barrage of connected content (graphics, video, social media, hypertext) within even one story is inescapable and yet, despite media's ubiquity, consumption patterns are not shared as they were in the era of mass media. Fragmenting media organisations; innovating, inexpensive digital start-ups; the reduction of media workforces; and the segmentation of audiences



into ever narrower slices of the total audience 'share' are dramatically altering the landscape.

Individuals are adapting and easily navigating digital media even while mobile, but their choices are potentially isolating and lack significant points of contact with others. Governments and political parties, on the other hand, have found it hard to adjust their communications to hyper-mediation and to social media's empowerment of citizen-consumers. The scattergun approach of repetitive messaging across multiple platforms for comprehensive coverage easily backfires, but so too does data-driven personalised messaging.

*Trust, blame, the 'Canberra bubble' and 'toxic politics'*

A transforming media is blamed for the toxic nature of contemporary political culture in Canberra and for undermining trust in democracy. Dissatisfaction with democracy, as tracked by the Australian Election Study (AES) since 1997, has reached an all-time high among voters.<sup>7</sup> Fairfax reported AES findings, subsequently initiating a reader poll on reasons for the state of Australian democracy.<sup>8</sup> Blame was primarily directed at politicians, the electoral system and mainstream media.

Summarised poll comments from the AES identified four main concerns about media's contribution to the state of affairs: a focus on conflict and negativity, partisanship, clickbait and not holding politicians to account. The four concerns seem indicative of broader public judgement. The two terms 'Canberra bubble' and 'toxic politics' are used more frequently since the 2018 Turnbull leadership spill. The first works as shorthand for a self-interested governing elite perceived to be out of touch with citizens' concerns. The second term has become a recurring narrative in hard news and opinion commentary.

*Partisanship*

Media organisations are accused of permitting ideological bias to distort news coverage; of misrepresenting government policy and actions; of being stooges of or echo chambers for particular parties and politicians; of producing fake news; of fuelling social divisions; and of crossing the line into political activism. These assertions are not always supported by substantive evidence and may be put forward for political reasons, but their repetition contributes to a discourse of media's failure to perform its 'fourth estate' public interest role. Australian journalists have been subjected to threats, exclusions, online trolling, police searches and even violence.

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<sup>7</sup> Cameron and McAllister 2018.

<sup>8</sup> Harris and Charlton 2018.

Accusations of political activism on the part of sections of the media have been voiced by, among others, Nine's chief political reporter;<sup>9</sup> the editor-in-chief at *Guardian Australia*;<sup>10</sup> and former Liberal<sup>11</sup> and Labor prime ministers.<sup>12</sup> Whether objective 'public interest' journalism, once the mainstay of mainstream news, can survive without government funding is a newer concern.<sup>13</sup>

#### Consumers' power

Streams of content originating in separate production processes blend at the point of consumption as end-users control the news feeds they receive, reproduce and annotate. Consumers become curators when blogs and social media give them the agency to select and prioritise the content forwarded to newsgroups and niche publics.

An individual's power to intervene directly in political debate exists and can be co-opted. A Facebook user in France posts her frustration about the cost of living and, 1 million likes later, French protestors, including the *gilets jaunes* or 'yellow vests', tune in to her drive-time live feed. A Twitter or Facebook user may be regularly annotating and forwarding texts to like-minded groups. Influencers emerge by remediating content, and the editing process on social networks is rarely as transparent as Wikipedia's.

#### Fake news

Fake news, when it is recognisably sensational clickbait, is familiar to most online users. 'Alternative facts' or covert political bias in a story can be harder to identify. Well-known individuals and organisations may be regular offenders. Anonymous content simultaneously emerging across several platforms is another red flag. Other telling signs relate to missing elements. A professionally produced news story carries the journalist's byline and contact details and is date-stamped. Revisions or corrections on subsequent iterations are recorded and disclaimers explain apparent bias or any other diversion from hard news protocols of even-handedness, such as the absence of comment from the subject of a critical story.

Fake news rarely carries such markers. Image altering software can make fakes on social media very convincing, and yet, perversely, content like this is trackable through reverse image searches or through more expert algorithmic analyses. A

9 Knox 2018. Chris Uhlmann launched a passionate attack on the Liberal–National Coalition leadership plotters, and included News Corp, Sky News, and 2GB staff, arguing that the latter were no longer observers but 'players'.

10 Christensen 2014. In an interview with *Mumbrella*, *Guardian Australia's* editor, Katherine Murphy, commented on rival News Corp's approaches to public debate.

11 Elton-Pym 2018.

12 Kevin Rudd has continued forthright attacks on News Corp (Rudd 2018).

13 See 'Media inquiries' below for further discussion.

majority of Australians recognise and make their own choices daily about fake news.<sup>14</sup> In the USA, fake news has had a chilling effect on public trust of news as the 45th president, with partisan hostility, regularly uses the phrase to attack media as ‘the enemy of the people’.

### *Publics*

Belonging to a public, or many publics simultaneously, is defined by values, mutual visibility and shared interests and activities. Publics can be identified by the communications around an agent, a text or an event. The Institute of Public Affairs’ Twitter feed is an example of a powerful conservative public with a record of climate change denial and radical commitment to freedom of speech. The operation of a horizontal public is exemplified by the *Guardian*’s live blog of the final day of Australian parliamentary proceedings for 2018. It attracted over 5,500 reader comments on 6 December.

### *Disrupters*

Anyone who is digitally literate can become a disrupter on social media. The online interventions by Russian providers of fake news during US elections in 2016 are regarded as a high-stakes example of state information warfare, although one US party benefitted from their efforts.

An everyday example of disruption is provided by a user’s response to a supportive tweet sent by Donald Trump’s lawyer, Rudy Giuliani, which contained an unintended hyperlink – a hackable point for an inventive anti-Trumper, who took charge of the link, buying a domain. When Trump’s supporters clicked through, they read unexpectedly negative messages.

Trump’s Twitter feed best illustrates the strengths and weaknesses of a platform routinely used by Australian politicians and journalists. Social networks give already powerful politicians and their media advisers even bigger megaphones, with access to global audiences. Politicians circumvent mainstream media by speaking directly to those they perceive to be their publics on Twitter, Facebook or Facebook Live, ignoring journalists and escaping difficult questions.

Regular tweeting can appear to close the distance between government and governed, but it can cause uncertainty and accountability is limited. When he was prime minister, Malcolm Turnbull’s Twitter account recorded political events. One morning he rebutted *The Australian*’s negative coverage of his post-spill actions.<sup>15</sup> Forwarded and receiving attention from other media, the tweet demonstrated social media’s potential for unsettling dominant media influencers.

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<sup>14</sup> Park et al. 2018.

<sup>15</sup> See <https://bit.ly/2mMJTuZ>

Social media participation by politicians, under-resourced parties, activist groups and individual citizens undercuts, and provides copy for, conventional reporting of politics and public affairs. Social media is shared space for politics in action.

#### The challenges posed by global technology giants

Innovation by end-users is only one way that digital technology is changing Australian political culture. Mainstream news is also challenged by competition from non-traditional technology rivals and start-ups in the news and public affairs marketplace. The social media giants do not pay for the user content that attracts the growth of their subscription bases and profits, yet some content may be profoundly damaging to the public good. More importantly, democracy itself can be weakened by the self-regulated nature and commercial interests of the global platforms.

Calling social media giants to account for the poor quality of the information distributed on their platforms has proved difficult for nation-states. Governments have not designed effective checks, of the kind that uphold the civic rights and responsibilities of a traditional free press, for Facebook and Twitter. The technology companies do not consider themselves publishers; they are not subject to professional publishing codes or state regulations governing news and public affairs journalism.

As yet, Facebook has little accountability for the circulation of, for example, hate speech and fake news on its platform. Like the media organisations discussed in the next section, the tech platforms track and reward users by employing algorithms to measure their activity, find ‘lookalikes’ and predict consumer behaviour.<sup>16</sup> UK democracy watchdog Demos, reporting on political marketing, describes the algorithmic approaches Facebook uses to make audience segmentation more precise through tracking similarities in user profiles.<sup>17</sup> Facebook’s data granularity makes it very effective and not necessarily a good thing. A cautionary tale is provided by the harvesting and exploitation of raw data from millions of unsuspecting Facebook users by the now-discredited political consulting firm Cambridge Analytica for targeted messaging in Trump’s 2016 campaign.

In any case, avoiding engagement with different perspectives is detrimental to democratic openness to rational argument. The social media giants’ operations encourage new social norms, yet they escape accountability: national legislation designed to protect users, and democracy, has no jurisdiction over them.<sup>18</sup>

Many kinds of ‘free’ information offered by social media platforms and by search engines such as Google come at a transactional cost to users. Data on media

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16 Tien 2018.

17 Bartlett, Smith and Acton 2018, 10.

18 Instagram has responded to UK activists, after media reports, by promising to redesign the automated forwarding of self-harm content to already vulnerable people.

consumers is premium information. The new political reality is that information about consumers, the creation of segmented publics or online clusters, and the adoption of sophisticated tools for managing that information all shape political parties' communication choices.

#### Mapping the Australian media and communications sector

Australia has a mixed economy approach to media – a combination of private and public enterprise. That said, the concentration of mainstream media ownership is very high, as the regularly updated maps and other information provided free by the Australian Communications and Media Authority (ACMA) illustrate.<sup>19</sup> Every large Australian city has at least one daily newspaper, available in print and digital versions. Even in the bush, where broadband access can be patchy, consumers have a choice of free-to-air commercial channels, public channels and paid digital television channels, and sometimes community television. Radio is still important in people's lives. Local stations, some with small footprints and tiny publics, broadcast 'news and talk' about public affairs in every state and territory.

#### Commercial media

At the macro level, commercial, public and government media broadly define the sector in Australia. Dominant cross-media commercial corporations with significant concentrated holdings and different business emphases compete for market share. Two of these are based in eastern Australia – Rupert Murdoch's News Corp and Fairfax Media Ltd (now owned by Nine) – though both own media enterprises or interests across the country. Along with Seven West Media, Kerry Stokes' holdings and Bruce Gordon's family-owned assets, they dominate the commercial media world.

#### *News Corp Australia*

News Corp Australia's claim that it is Australia's number one media company is based on market share and diverse market offerings, with 16 million monthly consumers for its print and digital products.

Their 'Find your Audience' webpage is an excellent illustration of the niche market segmentation tools that advertisers, including political marketers, regularly use to match delivery of content to user profiles. News Corp advises that it can connect advertisers to, for example, a group of 1,756,000 consumers labelled 'Mums, 36, with kids under 18' or to a market segment of two million 'Executive Influencers'.

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<sup>19</sup> ACMA 2018.

*The Australian* newspaper is the jewel in the News Corp crown. In terms of circulation figures, it has a combined print and digital audience of 2,787,000 over four weeks. This almost equals Fairfax's *The Age* and is just over half of the combined monthly totals for *The Sydney Morning Herald*.<sup>20</sup> *The Australian*, which uses paywalls for premium content, has no daily national agenda-setting competitor. *The Australian Financial Review*, owned by Fairfax Media (see below), is the only other national newspaper.

News Corp's potential capacity to set an agenda at the metropolitan level is indicated by the dominance of *The Advertiser*, first established by Rupert Murdoch's father. It is now Adelaide's only print daily newspaper. A small subscriber-based digital independent, *InDaily*, is the sole local competitor for *AdelaideNow*, *The Advertiser*'s digital version.

News Corp routinely opposes the current proliferation of online platforms when the opportunity arises to make public submissions. It has argued that the diminishing revenue streams create redundancies and make public interest journalism unsustainable.

#### *Fairfax Media*

News Corp's major commercial competitor, Fairfax Media, merged with Nine Entertainment in late 2018, after High Court approval. At the time of the merger, Fairfax had a comprehensive set of media assets, formats and platforms. Its newspapers include one of the highest-circulation metropolitan 'broadsheets', *The Age*, and *The Sydney Morning Herald* and *The Australian Financial Review*. Fairfax publishes regional agricultural papers and community newspapers and has continuously innovated, developing websites and tablet and smartphone apps. In the Australian capital, digital paywalls have been instituted for *The Canberra Times*, once freely available under Fairfax.

The Fairfax business was the subject of news and comment in 2018. Reports described massive job losses and business strategy issues. The merger with a different kind of media business generated concerns about the potential loss of a 177-year-old news tradition. Print and digital newspaper mastheads remain in place, with stories now unobtrusively branded by Nine. The impact on public interest journalism is currently unknown.

#### Public media: Australian Broadcasting Corporation (ABC)

The Australian Broadcasting Corporation (ABC or 'Aunty') has a national network of metropolitan and regional stations and offers a range of digital news, entertainment, sports and specialist channels, such as those for children's

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20 EMMA 2018.

programming, youth radio and rural communities. Government funding of about \$1 billion annually makes it a significant national enterprise. Commercial media's criticisms of platform proliferation and defence of private enterprise are arguably thinly veiled attacks on the ease and speed with which the national broadcaster has embraced the digital. At the ABC and elsewhere, workforce contractions and a proposed digital transformation project ensure that controversies over management, funding and direction continue.

A controversial period in 2017–18 ended with the removal of the ABC's managing director by the board of directors, and then the resignation of the board's chair. Its own journalists investigated board struggles in the *4 Corners* episode 'Bitter End'.<sup>21</sup>

The ABC Charter,<sup>22</sup> specifically legislated to safeguard the corporation's independence from government interference, sets high standards for professionalism and fairness. It outlines the broadcaster's national remit to inform, educate and entertain, and thus animate democracy. Nevertheless, accusations of bias periodically arise. Though the ABC has outspoken commercial rivals and political critics, it remains one of the most trusted institutions in Australian life, as evidenced by regular independent polls. It has a strong supporter base and a distinctive culture.

#### Public media: Special Broadcasting Services (SBS)

SBS is Australia's multicultural, multilingual channel. It is a 'hybrid' public broadcaster as its funding comes partly from direct grants and partly from advertising revenue. SBS television attracts 13.1 million people monthly and the downloads from radio are high.<sup>23</sup> The SBS streaming service, On Demand, is available more widely than that of any other broadcaster in Australia and makes hundreds of international and Australian movies and programs freely available.

SBS is distinctive in its commitment to Australia's cultural diversity and strongly promotes intercultural awareness. In 2013, it merged with the media company National Indigenous Television (NITV), that's largely Indigenous staff produce free-to-air content of local and national interest. Reportage of Indigenous perspectives has deepened and diversified, for example, on the preservation of Uluru as a sacred site and on the actions of the first ever Indigenous minister for Indigenous Australians.

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21 First broadcast on November 12, 2018.

22 *Australian Broadcasting Corporation Act 1983* (Cth).

23 SBS 2018.

## Free press in a democracy

Though media operates under pressure within regulatory safeguards, the dynamics of the sector might make the ‘fourth estate’ concept seem archaic.<sup>24</sup> But, in fact, it still resonates broadly in the community and powerfully with many journalists, despite the challenges of redundancies and industry change.<sup>25</sup>

The ‘fourth estate’ view of media rests on the principle of freedom of speech. The ‘fourth estate’ view holds that the role of a free media in a democracy is to inform electorates, interpret political events and speak truth to power. Liberal democracies place high value on a fair, strongly independent media – free from censorship or political influence or attack – that willingly acts as a guardian of the public interest.

An impartial press watches over the operations and probity of other institutions, often prompting political action. Stories in 2017–18 about customers’ treatment by Australian banks pressured an initially reluctant government into holding a royal commission into the financial sector. Media pay close attention to the administrative arm of government, tracking allegations of misconduct. *The Australian’s* ‘Teacher’s Pet’ podcast, an investigative account of the cold case of missing woman Lyn Dawson, might have encouraged new witnesses to come forward and led to the subsequent arrest of a suspect and the reopening of criminal and judicial processes. Excessive media attention can, however, damage the presumption of innocence.<sup>26</sup>

The important role of a free media is highlighted during election periods. Choosing a government that best serves citizens’ interests depends on accurate information being circulated in a timely, transparent and accountable way. Journalists use a raft of presentation techniques to refresh people’s memories about the past performances of parties and politicians: slogans, file footage, report cards, policy chronologies, infographics, interactive maps and, of course, cartoons. Political cartoonists normally operate outside the defamation framework. Comment is robust. For instance, ‘Stab...ility’, Matt Golding’s conga line of prime ministerial backstabbers, encapsulated a decade of unedifying conduct in Australian politics.<sup>27</sup>

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24 The other three ‘estates’ describe the checks and balances appropriate for democratic governance. In secular Australian governance, the three powers are the executive, the administration, and the judiciary.

25 New Beats 2018.

26 Fedor and Cooper 2018.

27 The Museum of Australian Democracy’s annual exhibition is online at <https://bit.ly/2lfzV4B>



### Limits of press freedom

Absolute freedom of expression for the press does not exist anywhere. Even in polities considered liberal democracies, there are nuances. Defence of the principle of free speech was turned into a weapon that several politicians and journalists on the right of politics used to try to silence opposition to proposed amendments to the *Racial Discrimination Act 1975* (Cth), specifically to section 18C. The proposed wording aimed to neuter the regulation of racially based hate speech. In 2011, columnist Andrew Bolt controversially, and unsuccessfully, tested 18C in the High Court.<sup>28</sup>

Analysing the fine details of regulatory frameworks and media operational practices is important when defining a liberal democracy. Details to be considered include: journalists' training and citizens' expectations; security restrictions in investigating a government, judiciary or administration; freedom of information processes; defamation law; the existence of legislation protecting journalists; and a government's informal practices in dealing with journalists' dissent. Compared to regimes where journalists are censored, imprisoned or assassinated, the conditions for a free press in Australia are generally good, though vigilance is always necessary.

### Media inquiries: monitoring the state of public interest journalism

In May 2018, the report of the Senate Inquiry into the Future of Public Interest Journalism was published. It first assessed changes to news and public interest journalism since the Finkelstein Inquiry five years earlier, before turning to the questions of government funding and a new statutory body with oversight of media – the latter suggestion largely unpopular with media organisations.

The Senate report focused on changes to news caused by the move to a predominantly digital environment. Since Finkelstein, the Senate report noted, the pace of change had exponentially accelerated and, despite the proliferation of new players, the sector's capacity to fund public interest journalism was being negatively impacted. Challenges included the collapse of advertising revenues and business models, and job losses. Despite recognising media's challenges, government funding was not recommended. Government thus reaffirmed its reluctance to intervene directly in the mixed media economy.

### State regulators and self-regulation bodies

Government sets the regulatory framework for the media and communications sector, and various statutory and self-regulation bodies monitor compliance.

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<sup>28</sup> An ABC report on the High Court decision summarises the case: <https://ab.co/31Vv8FT>

### *Government regulation*

The ACMA is the government regulator for broadcasting, the internet, radiocommunications and telecommunications. It recognises the ‘diversity and complexity’ of the Australian media and communications landscape and describes its remit as protecting community interests and promoting industry growth.<sup>29</sup>

In addition to handling complaints and monitoring industry compliance, ACMA publishes resources about media. It provides infographics and Word documents showing the ownership of the multiple corporations and organisations operating in Australia, tracing cross-platform networks of corporate holdings. Its work informs federal legislation to prevent the formation of media monopolies.

A full list of legislation, other regulatory bodies like the Australian Consumer and Competition Commission (ACCC) and the Ombudsman, bodies such as the Press Council of Australia and advocacy groups like the Advertising Standards Bureau can be found in the guide to media and resources on the parliament of Australia’s website.<sup>30</sup>

### *Self-regulation bodies*

The Press Council of Australia, set up in 1976 and funded by volunteer member organisations, is among the various regulatory bodies dedicated to ensuring that standards of good practice are upheld, complaints are adjudicated and informed advice is available on media policy areas. The Media, Entertainment and Arts Alliance (MEAA), established in 1992, introduces its detailed code of journalistic ethics by emphasising the rights of the public and journalists’ responsibilities.<sup>31</sup> In addition to a strong statement of ‘fourth estate’ purpose, the MEAA website provides professional codes and resources for media workers and the general public. The MEAA runs campaigns to protect press freedom, critically engaging with policy that threatens journalists’ pursuit of the truth.

In one example, members organised a petition against sections of the *National Security Legislation Amendment (Espionage and Foreign Interference) Bill 2017* (Cth), proposed by the Liberal–National (Coalition) government led by Malcolm Turnbull. If passed, the legislation would have criminalised the unofficial receipt and handling of government information and undermined journalists’ time-honoured protection of their sources, and even safeguards for whistleblowers. Journalists were quick to call the proposal an attack on press freedom. In 2019, chief executives from the ABC, Nine and News Corp united in calling for better protections for journalists following federal police raids on the Canberra home of a NewsCorp journalist and ABC offices in June.

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29 ACMA 2018.

30 Jolly 2017.

31 MEAA 2018.

## Parliament House: government and media

Hansard is not the only public record of proceedings in the Australian parliament. Media is ever-present. But there are different kinds and motivating forces. In the chambers and committee rooms, parliamentary audio-visual recordings are published every day without additional interpretation or analysis. Multiple media organisations operate out of Parliament House; the press watches proceedings from closed galleries or live feed in media offices. Government ministries and agencies run policy information campaigns and regularly engage citizens through mainstream and social media. Party media offices attempt to take control of the news agenda through press releases, doorstops, supplying talking points and so on.

All this activity and access upholds transparency and accountability. However, media's focus and agency are increasingly seen to be tainting politics with the apparent need to spin and the negative aspects of public relations. The following section discusses potentially problematic areas.

### *Controlling the message*

Australia's top political office, Prime Minister and Cabinet, is served by a large staff dedicated to publishing the government's good news, burying its bad news, blocking opposition stories that are seen as 'cutting through' with the electorate and other forms of media management. At party headquarters, staff monitor the clippings supplied by news aggregators, with circulation figures attached. Talking points are supplied for spokespeople. Staying rigidly 'on message' can be counter-productive as politicians work from scripts with repeated phrases. Some politicians leave speech writing, image management and social media outreach to their media-savvy staff. The rise and fall of governments are shaped through a public relations-style handing of government information and citizen engagement.

### *Parliamentary recordings*

Details of the business of government are available for forensic scrutiny through official parliamentary media recordings. Both chambers and committee rooms are televised, and date-stamped proceedings are viewable online on the Australian Parliament House website. Strict rules govern what may and may not be recorded in the private areas of Parliament House. Information on the parliament of Australia website is available for fair re-use.

The televising of parliament has many critics among older public servants and political observers. Although its contribution to the transparency of government is acknowledged, it is also thought to exacerbate some of the worst aspects of politics – for example, the combative point scoring and insults thrown in question time and the gradual development of opportunities for representatives to play to the cameras, rather than pursue the details of policy effects.

## Journalists and sources

### *The Federal Parliamentary Press Gallery*

The parliament of Australia makes swathes of information available to watchdogs (journalists and the general public) and provides offices and services to media organisations. Journalists are visible everywhere in parliament. Their conduct is governed by rules and conventions, with the sergeant-at-arms, the usher of the black rod and officers from Parliamentary Services overseeing compliance and ensuring media balance.<sup>32</sup> Both parliamentary chambers have an enclosed gallery, where Australian and international journalists photograph, live tweet and write copy about the day's events. The Federal Parliamentary Press Gallery offices are co-located on the second level of Parliament House, on the Senate side. Accredited journalists number over 250 and, as the official website notes, since the first days of Federation journalists have shared their resources with colleagues. Despite the news imperative to break stories first, televised news can often include 'vision' – either footage or stills – gifted to the station by another journalist.<sup>33</sup> The phrase 'Canberra bubble,' mentioned earlier, is used when referring to the shared assumptions, conventions and shorthand said to be shaping political news produced by and for an elite separated from the concerns of the public. Rather than acting independently of politics, in a public interest role, media has been compromised by its focus on the theatre of emotions, rather than the substance of policy discussions, or so the argument goes.

### *Co-location*

The working lives of political journalists, elected representatives and media officers are intertwined and mutually dependent. Journalists are hired as media officers by politicians or stand for election, and politicians are employed by media organisations. The National Press Club is a short walk from parliament.

Politicians seek media attention to make themselves and their parliamentary record known to constituents and other party members, and they use media outlets to promulgate policy to as wide an audience as possible. From the moment they nominate for public office, politicians can expect to have every part of their lives examined. During election periods, they may be subject to a personalised 'dirty tricks' campaign, as Kerryn Phelps and Dave Sharma were, simultaneously, during the key loss of the Liberal seat of Wentworth in the 2018 by-election. Managing media coverage of pertinent questions of eligibility and moral fitness to serve became a particular problem for some MPs and Senators embroiled in the controversy over dual citizenship in the 2016–19 parliament.

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<sup>32</sup> Parliament of Australia 2008.

<sup>33</sup> Federal Parliamentary Press Gallery n.d.

Journalists vigilantly stay abreast of dynamic events in order to make sense of them. Ethical issues arise when career success could depend on being the first to publish stories that are important to readers. Reporters risk being manipulated when acting on leaks from staffers or politicians with agendas. Relations between journalists and politicians often become heated, and payback is known to occur. Controversial decisions made by journalists in 2018 include revealing details of Barnaby Joyce's private life and releasing information that confidential government documents had been found in a second-hand store in Canberra, while the news organisation concerned (the ABC) perused the documents, presumably to assess their news value.

Co-location supports anonymous leaks. Politically motivated leaks, while sometimes revealing inappropriate activity, have an overall tendency to contribute to distrust in political processes. They lead to instability, can be vexatious and in some cases may even be criminal; however, even under legal pressure, journalists remain reluctant to identify their sources.

## Conclusions

Media content creates narrative meanings that are never 'just what happened'. Some content is manipulated, other stories fall into conventional narrative patterns; attempts to change the news agenda may go badly wrong, but sometimes, in the hands of a media-savvy and quietly angry politician, the opportunities presented are too good to miss.

When former Foreign Minister Julie Bishop wore red shoes at a press conference outside parliament, she generated media columns during the penultimate sitting week of parliament in 2018, and, periodically, the red shoes continue to do so. The following context suggests the significance of the Museum of Australian Democracy exhibit shown in Figure 1.

After Scott Morrison won the leadership ballot, the new Coalition team struggled to manage the public's hostile reactions. Reporters continually speculated on the details of Turnbull's removal and persistently questioned why Bishop, the most popular Liberal politician and a moderate, had not been supported by her colleagues. On the obvious slight, Bishop was silent, until Julia Banks resigned from the Liberal Party, fuelling a belief that both women had suffered from sexism. Banks and Bishop went public with their assessment of the politics – in their different ways – on the same day.

The chain of events demonstrates that attempting to manage media depends on skill, judgement and an element of luck. The day began with two senior ministers starting a 'presser', hoping to switch off negative media coverage of the new government with good news about the economy. During the press conference, they (and those in attendance) were alerted by mobile phone that Julia Banks was beginning a resignation speech in the House of Representatives, citing a sexist party



Figure 1 Julie Bishop's red shoes displayed at the Museum of Australian Democracy.  
Source: author.

room and culture as major reasons for her departure. Press crews captured the surprise and immediate dispersal that this information occasioned – with some participants televised running back to the House. News images followed of women from the backbenches and the crossbench warmly empathising with Banks and supporting her, confirming the view long held by many that the Liberal Party had a gender problem, even with its successful, experienced female members.

Bishop's flamboyant shoes at her own 'presser' later that day might be read as a light-hearted prop chosen by a senior female politician with an interest in fashion that was familiar to the public. Nothing is so simple. In a disastrous week for the Coalition, the shoes worked as a complicated sign with fluid (not infinite) meanings: Bishop's implicit support for Banks' struggles; her silent comment on being marginalised by a sexist Liberal party room; or the West Australian seizing a pertinent moment to remind her constituency that she remained a potential prime ministerial candidate, despite receiving only 11 votes during the Turnbull spill. Bishop's later tweet about the 'surprising' attention the shoes attracted carried a red heels emoji. Bishop is an enthusiastic emoji user with over a quarter of a million followers on Twitter, and an excellent manager of her personal 'brand'.

Turnbull's tweet direct to *The Australian* was also a comment on the spill and on conservative wrath at failing to install a preferred leader. Turnbull used the right



of reply on a social media platform against a story attacking his reputation and legacy. Like Bishop, he is not an ordinary citizen. Prior media and public interest in the senders' political status was required to give both tweets the significance they acquired.

This chapter has touched on mediation processes, old and new players, the challenges of transformation and public concerns. It is encouraging that, despite the loss of trust in contemporary politics, Australians' interest in political events remains strong. Nielsen digital ratings show that time spent reading online news spiked to 44 per cent more than the daily average on the day of Turnbull's removal, 24 August 2018, with Australians accessing news across all platforms and devices.<sup>34</sup> However, trust in media fluctuates. During the Turnbull spill, Chris Uhlmann's accusation that some right-wing journalists crossed the line to become 'players in the game' in the ousting of a prime minister is a compelling and timely warning against such abuses of the privileges enjoyed by journalists. A perceived focus on click-worthy political content, rather than policy discussion, is also a legitimate criticism of media.

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# Courts

Grant Hooper

## Key terms/names

appeal, appellate jurisdiction, common law, court hierarchy, jurisdiction, original jurisdiction, rule of law, separation of powers, statutory law

The courts (also referred to as the judiciary) are a central and critical part of Australia's constitutional system. They are one of the three arms of government, the other two being the legislature (also referred to as parliament) and the executive. Due to their lack of independent resources and enforcement mechanisms, the courts are often called the least powerful arm of government.<sup>1</sup> Yet this description belies their actual importance.

The specific and essential role played by the courts is providing binding and authoritative decisions when controversies arise between citizens or governments, or between the government and its citizens, regardless of whether the rights in issue relate to life, liberty or property.<sup>2</sup>

Australian courts are modelled on their English counterparts, and before Federation each colony had a separate court system that was ultimately answerable on questions of law to the Privy Council in the UK. After Australia's Federation in 1901 the separate state systems continued, but the court hierarchy was modified by inserting the High Court of Australia between the state courts and the Privy

Hooper, Grant (2019). Courts. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

<sup>1</sup> Stephen 1982, 338.

<sup>2</sup> *Huddart, Parker and Co. Pty Ltd v Moorehead* (1909) 8 CLR 330, 357 (Griffith CJ).

Council. Recourse to the Privy Council was finally removed in 1986, leaving the High Court as the apex court and, as such, the ultimate arbitrator of the law in Australia.<sup>3</sup>

Upon its creation the High Court was also given its own original jurisdiction by the Australian Constitution (the Constitution). Although not expressly provided for in the Constitution, this jurisdiction (borrowing from the USA) was assumed to include the ability to invalidate legislation that is not supported by, or is contrary to, the Constitution. As a matter of convenience, the Constitution also allowed state courts and other courts that may be created by the Commonwealth parliament to be given the ability to exercise federal/Commonwealth judicial power. This has led to an integrated, albeit complex, court system.<sup>4</sup>

What decisions do courts make?

Although eluding precise definition,<sup>5</sup> the classic starting point for determining what a court does (i.e. what judicial power is) is the following statement of Griffith CJ in *Huddart, Parker and Co. Pty Ltd v Moorehead*:

I am of the opinion that the words ‘judicial power’ as used in sec. 71 of the Constitution mean the power which every sovereign authority must of necessity have to decide *controversies* between its subjects, or between itself and its subjects, whether the *rights* relate to life, liberty or property. The exercise of this power does not begin until some tribunal which has power to give a *binding and authoritative decision* (whether subject to appeal or not) is called upon to take action.<sup>6</sup>  
[emphasis added]

This statement can be said to have three key components: controversies, rights and a binding and authoritative decision.

The controversies that the courts typically decide can be divided into two legal categories: private law and public law. Private law incorporates disputes between ‘subjects’ or citizens and includes, for example, tort, contract and defamation law. Public law on the other hand generally involves disputes between government and its citizens or disputes between governments (e.g. state versus state or state versus Commonwealth). It typically encompasses constitutional, administrative and criminal law. However, due to its importance, criminal law is often treated as its own separate category.

The ‘rights’ that courts adjudicate upon are existing ‘legal rights’ rather than future rights (the creation of future rights is generally seen as a legislative power).

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3 *Australia Act 1986* (Cth), section 9; *Australian Act 1986* (UK), section 9.

4 Crawford and Opeskin 2004, 21.

5 Williams, Brennan and Lynch 2018, 597.

6 *Huddart, Parker and Co. Pty Ltd v Moorehead* (1909) 8 CLR 330.

Such rights are found in the common law or granted by the legislature through statutes.

Perhaps the most essential power of the courts is to provide a binding and authoritative decision so that the dispute between the parties is finally determined, at least once any appeal process is completed. Once authoritatively determined, the decision, whether private or public in nature, can be enforced by the executive government if it is not willingly accepted by one of the parties.

Although not specifically mentioned in the statement of Griffith CJ quoted above, other cases emphasise the importance of a fourth feature of the courts' decision-making process: to adjudicate a controversy by applying 'judicial process'.<sup>7</sup> 'Judicial process' will be touched upon when discussing the separation of powers doctrine later in this chapter. It is sufficient for now to observe that 'judicial process' is deciding a controversy 'in accordance with the methods and with a strict adherence to the standards which characterise judicial activities'.<sup>8</sup>

#### Historical development

Australia's common law system is inherited from England. The term common law reflects one of this legal system's theoretical aims: to create a 'common' system of law. That is, a system of law that applies to all, regardless of wealth, station or political influence. From a practical perspective, common law rules are created by the courts when they decide a dispute. To explain how it has decided a particular dispute, the court issues a judgement outlining the rules of law that have been applied. The rules of law or precedents in these judgements are then developed, modified or extended by later courts when they decide similar or analogous disputes. Courts that are lower in the hierarchy must follow the precedents created by higher courts. The requirement that judges follow the judgements of earlier courts is referred to as the doctrine of precedent.

In England, the common law has existed since the 12th century, when the King appointed judges to act as his 'surrogates' to dispense justice. The judges were known collectively as the King's Court.<sup>9</sup> While originating in a time when the King of England ruled with almost absolute power, the common law was not developed to only and always benefit the King. Rather, the common law 'was founded in notions of justice and fairness of the judges, consolidated by their shared culture, their professional collegiality, and a growing tradition'.<sup>10</sup> Indeed, with the rise of the common law there also gradually developed a view that the King's power was not absolute but was subject to limits. Of course, the King's power diminished further

7 *Graham v Minister for Immigration and Border Protection* [2017] HCA 33, [39].

8 *R v Spicer; Ex parte Australian Builder's Labourers Federation* (1957) 100 CLR 277.

9 Crawford and Opeskin 2004, 6–7.

10 Crawford and Opeskin 2004, 6.

over time, while the power of a new institution – parliament – grew. Parliament's growth, in turn, saw its rules of law (i.e. legislation) replace the common law as the most 'significant source of new rules'.<sup>11</sup> Yet parliament's rise arguably changed the initial focus of the courts rather than diminished their significance. Their role is still to decide controversies brought before them by citizens or governments; but they will now often start with a legislative rule rather than a common law one, examining precedents to determine how the legislative rule has been and should be interpreted and how it has been applied by previous courts.

#### *The establishment of courts in Australia*

Before the First Fleet left for Australia in 1787, legislation and letters patent allowed for the creation of a criminal court and civil court respectively in New South Wales (NSW). These courts were established upon the First Fleet's arrival but were initially staffed by military officers. Later, when the first judge was appointed, he was required to follow any order given by the governor who, for all intents and purposes, exercised both legislative and executive power. It was not until the passing of the *New South Wales Act 1823* (UK) that the colonial judges obtained the same level of independence and security of tenure held by their English counterparts.<sup>12</sup>

The *New South Wales Act 1823* also established separate Supreme Courts in NSW and Tasmania and provided for the establishment of inferior courts – that is, courts below the Supreme Courts. Ultimately, a similar court system was established in each Australian colony and continues, with some modifications, today (today the inferior courts are generally called District, Local or Magistrate's courts).

On 1 January 1901 the Constitution came into effect and the Commonwealth of Australia was born. As Blackshield and Williams observe:

The system of federalism created by the Australian Constitution involves two tiers of government in which power is divided between the Commonwealth and the States. Each tier has its own institutions of government, with its own executive, parliament and judicial system.<sup>13</sup>

Consequently, the colonial (now state) court systems continued, but there would now also be federal courts and, in particular, the High Court of Australia, created under section 71 of the Constitution. Under sections 75 and 76 of the Constitution, the High Court could hear and decide certain matters involving Commonwealth power – that is, it would hear the matters in its original jurisdiction. Under section 73, the High Court would also hear appeals from the state Supreme Courts and any federal courts that would be created.

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11 Creyke et al. 2017, 9.

12 Crawford and Opeskin 2004, 23–4; Creyke et al. 2017, 45.

13 Williams, Brennan and Lynch 2018, 264.

It was clear that the High Court of Australia was generally to operate in the same manner as the English common law courts. However, there was one significant difference. Because England did not have a written constitution, the English courts accepted that they did not have a constitutional role, in the sense that they did not rule on the constitutional validity of legislation. In contrast, borrowing from the USA, which did have a written constitution, it was assumed that the Australian High Court would declare Australian legislation (whether state or Commonwealth) invalid if it exceeded the constitutional power of the enacting parliament or infringed an express or implied limit in the Constitution.<sup>14</sup>

The Constitution also provided in section 71 that the Commonwealth parliament could create other federal courts. Although a Federal Court of Bankruptcy was created in 1930 and an Industrial Court in 1957, it was not until the 1970s that a generalised system of federal courts was established. This began with the creation of the Family Court of Australia in 1975 and the Federal Court of Australia in 1976. As a result of the increasing workload in both the Family and Federal Courts, in 1999 the Federal Magistrates Court, now called the Federal Circuit Court, was established.

#### Court hierarchy

The Australian court system has many different courts with different responsibilities. Each court is regulated by an Act of parliament. The federal courts, including the High Court, are regulated by an Act of the Commonwealth parliament. The state courts are regulated by their respective state parliaments. The Australian Capital Territory and Northern Territory courts are also regulated by their respective parliaments, although they owe their ultimate existence to Commonwealth legislation.<sup>15</sup>

Despite the number and different types of courts, there is a reasonably clear hierarchy, with the High Court at the apex of what can be described as a unified system.<sup>16</sup> It is a hierarchy in the sense that courts are ranked from highest to lowest. Figure 1 provides a general overview of this hierarchy. The hierarchy in turn facilitates the operation of three important characteristics of the modern common law system:

- the balancing of specialist knowledge with more general legal knowledge

14 This principle is derived from the US decision of *Marbury v Maddison* (1803) 1 Cranch 137 and, subject to some modifications, is accepted as 'axiomatic' in Australia: see *The Australian Communist Party v The Commonwealth* (1951) 83 CLR 1, 262 (Fullagar J).

15 Section 122 of the Constitution enables the Commonwealth parliament to pass laws allowing for self-government of the territories.

16 *Kable v Director of Public Prosecutions (NSW)* (1996) 189 CLR 51, 138 (Gummow J).

- an appeal or judicial review process
- the doctrine of precedent.<sup>17</sup>

While providing a general overview, Figure 1 is somewhat of a simplification for two reasons. First, the division between federal and state courts may give the impression that state courts only exercise their respective state's judicial power; however, they also exercise federal power. Second, while the court system in each state and territory follows the general structure shown in the figure, in reality each system is more complex; other, more specialised courts have been created and there may be slight differences in the appeal processes.

In each state and territory, it is generally accepted that courts lower in the hierarchy should deal with less important matters (both in monetary value and seriousness) and that for some types of cases there should be an initial hearing before a judge with expertise in the particular subject matter before them. In NSW, for example, the Local Court can hear civil cases with a value of up to \$100,000, the District Court up to \$750,000 and the Supreme Court any amount. Similarly, there are other courts in the state that deal with particular types of matters, and there are specialist divisions within the Local and Supreme Courts that deal with either civil or criminal matters. Figure 2 provides an overview of the NSW civil court structure and Figure 3 provides an overview of the criminal court structure.

*Greater integration: the exercise of federal judicial power by state courts*

While the US constitution provided much of the inspiration for the drafting of Chapter III of the Constitution, which deals with the federal court system, there are two very significant differences that have meant Australia's court structure is far more integrated.

The first difference is that in the USA the federal and state court systems are quite distinct. As the three figures show, in Australia the High Court hears appeals from federal, state and territory courts. This means that the High Court has been able to establish 'one Australian common law'<sup>18</sup> rather than overseeing a different common law in each state and territory and at the federal level.

The second difference is that provision was made in sections 71 and 77(iii) of the Constitution for the Commonwealth parliament not only to create federal courts but to also allow state courts to exercise federal judicial power.<sup>19</sup>

Giving state courts the power to exercise federal jurisdiction generally, rather than in limited circumstances, was a uniquely Australian development and is known as the autochthonous expedient.<sup>20</sup> Autochthonous means indigenous or

17 Harvey 2017, 74.

18 *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, 563.

19 The Commonwealth parliament has invested state courts with the ability to exercise federal jurisdiction; see in particular section 39 of the *Judiciary Act 1903* (Cth).

20 *R v Kirby; Ex parte the Boilermakers' Society of Australia* (1956) 94 CLR 254, 268.

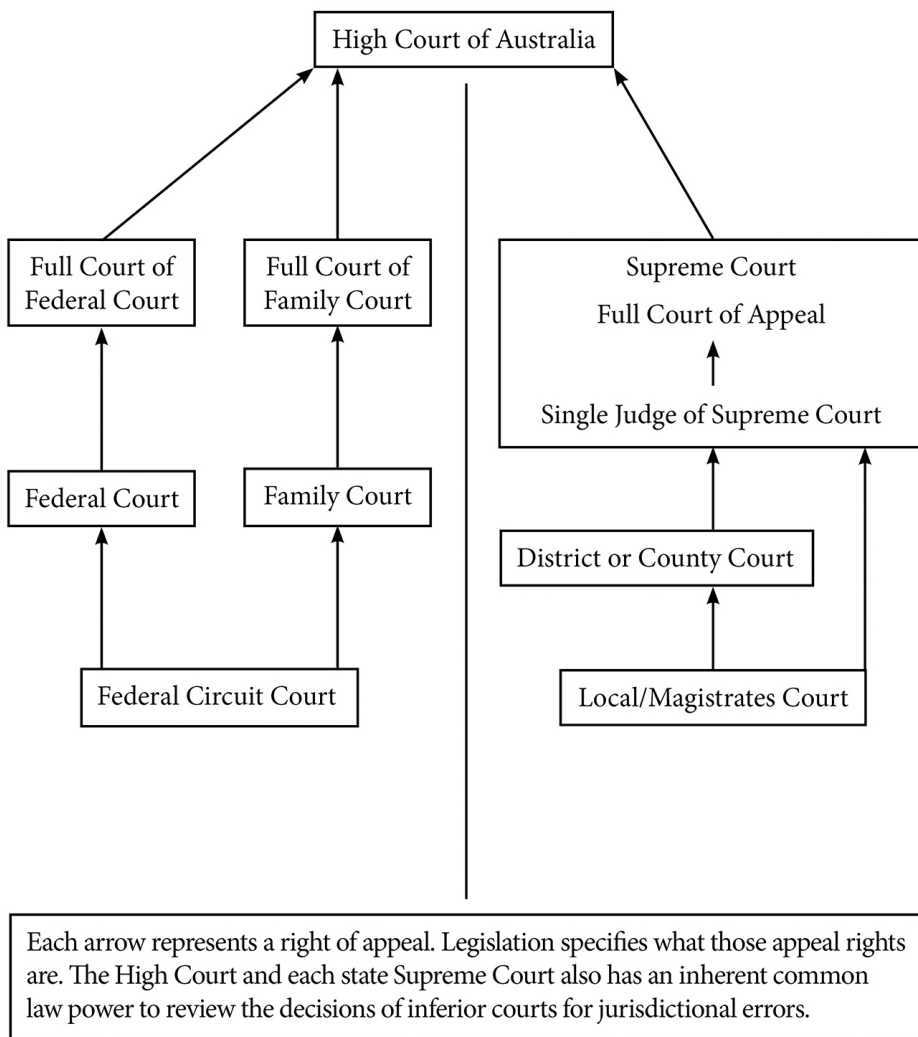


Figure 1 Generalised Australian court hierarchy.

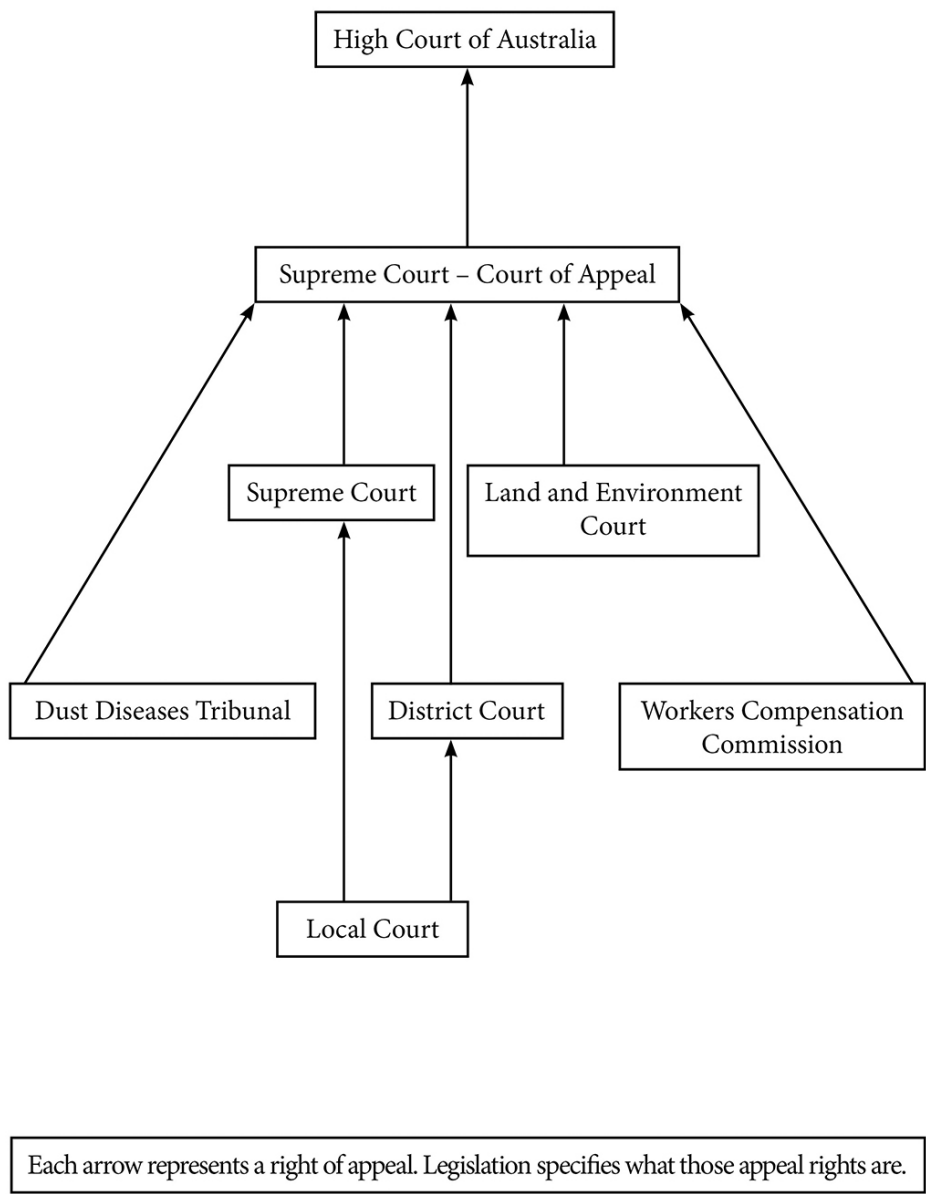
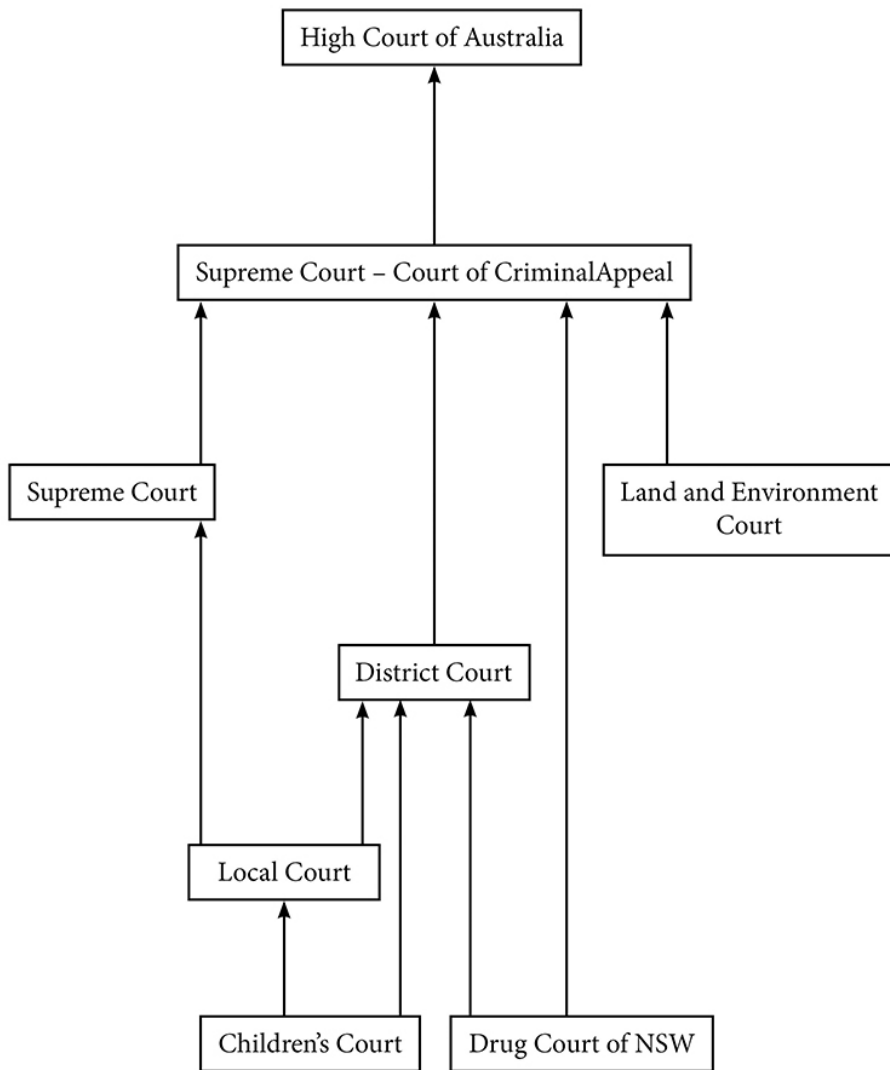


Figure 2 Generalised NSW civil court hierarchy.





Each arrow represents a right of appeal. Legislation specifies what those appeal rights are.

Figure 3 Generalised NSW criminal court hierarchy.

native to the soil and the term expedient acknowledges that it was seen as a practical measure to both simplify the resolution of disputes that may be brought before a court under the Constitution, common law or state legislation<sup>21</sup> and delay the need and cost of setting up a new federal court structure beneath the High Court.<sup>22</sup> Even now that a quite extensive federal court system has been created, the state courts continue to hear most criminal cases brought under federal law.<sup>23</sup>

Although not expressly provided for in the Constitution, Australia's court system has become even more integrated through cross-vesting legislation passed by the Commonwealth and by each state and territory, allowing the Supreme Courts (and to a lesser extent the Federal and Family Courts) to exercise each other's jurisdiction. The *Jurisdiction of Courts (Cross Vesting) Act 1987* (Cth) provides, for example, that in civil matters the Supreme Courts can exercise federal, as well as other states' jurisdiction. It then provides for the transfer of proceedings to the most appropriate court. However, while federal jurisdiction can be vested in state courts, the Constitution does not allow state jurisdiction to be vested in federal courts.<sup>24</sup>

#### Key constitutional principles

There are a number of fundamental doctrines found in the Constitution. They include 'the rule of law, judicial review, parliamentary sovereignty, the separation of powers, representative democracy, responsible government and federalism'.<sup>25</sup> While each principle influences how courts operate in Australia, two principles in particular can be said to be part of the courts' DNA. These are the rule of law and the separation of judicial power.

#### *The rule of law*

It is commonly accepted that the rule of law is an essential feature or sign of a healthy democratic society. Yet, despite its importance, what the rule of law actually means is highly contested. This is because it can be said to be a political rather than legal concept or an aspirational rather than legal right. Nevertheless, most conceptions of the rule of law start with the ideal that there should be known laws that are administered fairly and that everyone is subject to,<sup>26</sup> whether they are poor, rich, weak, powerful, a private citizen, a public servant or a member of parliament.

21 Crawford and Opeskin 2004, 40.

22 *Re Walkim; Ex parte McNally* (1999) 198 CLR 511, [200] (Kirby J).

23 Crawford and Opeskin 2004, 43.

24 *Re Walkim; Ex parte McNally* (1999) 198 CLR 511.

25 Aroney 2018, 1.

26 Burton Crawford 2017, 10–11.

While the rule of law is a cultural commitment shared between all three arms of government, the courts are, and see themselves as, central to its enforcement in Australia. The courts enforce the law not only by interpreting it and issuing authoritative and binding judgements but also by applying a process in which the parties in dispute can be seen to have received a fair hearing. This process culminates in written reasons. Written reasons are not only necessary for the doctrine of precedent to operate effectively, they also ensure that the parties and others who may be affected by the law know why the decision was reached. This, in turn, supports the presumption that the law is being administered in an open, public and ultimately fair manner. Importantly, and entwined with the doctrine of the separation of judicial power, this judicial process is designed to ensure that the law is administered as it exists and not as the executive government desires or believes it should be. In this regard, the High Court has emphasised that ‘all power of government is limited by law’ and that it is role of the judiciary to enforce the law and the limits it imposes.<sup>27</sup>

#### *The separation of judicial power*

A separation of powers exists when the power of government is divided between the legislature, the executive and the courts. Generally speaking:

the legislature enacts laws; the executive applies those laws in individual cases; and in the event that a dispute arises about the meaning or application of a law, the dispute is resolved conclusively by the judiciary.<sup>28</sup>

A strict separation of powers is enshrined in the US constitution, but it has never existed in England. However, in England parliament has recognised the importance of an independent judiciary since at least 1701.<sup>29</sup> Australia has adopted somewhat of a middle ground between the US and English approaches. It only applies a strict separation of power to federal courts (including the High Court) but still provides the state Supreme Courts with a significant level of independence.

Federal courts owe their existence to the Constitution, which creates a strict separation of power between the courts and the other two arms of government. This separation of powers is commonly known as the Boilermaker’s principle and means that only courts created under, or given power through, Chapter III of the Constitution can exercise Commonwealth judicial power and that the same courts are not to be given or to exercise Commonwealth executive or legislative powers, with some established exceptions.<sup>30</sup> Consequently, not only is the independence of

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<sup>27</sup> *Graham v Minister for Immigration and Border Protection* [2017] HCA 33, [46].

<sup>28</sup> Creyke, McMillan and Smyth 2015, 313.

<sup>29</sup> *Act of Settlement 1701* (UK).

<sup>30</sup> *R v Kirby; Ex parte the Boilermakers’ Society of Australia* (1956) 94 CLR 254.

a federal court guaranteed, their independence and integrity cannot be undermined by giving them, for example, a political and potentially damaging function.

State courts, which were created like their English counterparts, are not protected by a strict separation of judicial power.<sup>31</sup> This means that state parliaments can vest state judicial power in other institutions or require courts to undertake non-judicial roles. However, as state courts are now part of an integrated court system under the Constitution and can be vested with federal judicial power, the High Court has held that there is a limit to what state parliaments can require them to do as they must continue to bear the essential or defining characteristics of a court. This is known as the *Kable* principle.<sup>32</sup>

The defining characteristics that have been said to be attributable to all courts, whether federal or state, include not only the ‘reality and appearance of the court’s independence and impartiality’<sup>33</sup> but also important aspects of the judicial process traditionally applied by the courts in reaching a decision, such as:

- ‘the application of procedural fairness’
- ‘adherence, as a general rule, to the open court principle’
- ‘the provision of reasons for decisions.’<sup>34</sup>

#### Political impact of the High Court

As one of the three arms of government, the role of the courts is inherently political. This is particularly true of the High Court, which is Australia’s apex court and the final interpreter of the Constitution. The High Court’s judgements can have, and have had, a significant and lasting impact on the shape of Australia’s ‘political system and process’.<sup>35</sup> Further, as Turner has observed, the High Court ‘is an important political forum used to advance or stymie political programs’, its decisions ‘have significant political and societal implications’ and cases may be brought before it to try and influence government policy.<sup>36</sup>

Despite the central role it has played and continues to play in Australian politics, the High Court inevitably seeks to disavow any direct connection between politics and what it says it is doing in interpreting and applying the law. This is reflected in Latham J’s classic and often quoted assertion that:

the controversy before the court is a legal controversy, not a political controversy. It is not for this or any court to prescribe policy or to seek to give effect to any views

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31 *Clyne v East* (1967) 68 SR (NSW) 355.

32 *Kable v Director of Public Prosecutions* (NSW) (1996) 189 CLR 51.

33 French 2012, 5.

34 French 2012, 5.

35 Irving 2009, 116, describing observations of Galligan 1987, 1.

36 Turner 2015, 358–9.

or opinions upon policy. We have nothing to do with the wisdom or expediency of legislation. Such questions are for Parliaments and the people.<sup>37</sup>

This is, in effect, an assertion that law is separate from politics. It is a form of reasoning typically described as legalism – that is, the court will decide matters by reference to existing rules and principles, not policy considerations. However, this form of reasoning can be said to be astutely political in and of itself as it seeks to insulate the courts from political controversy by downplaying judges’ ability to make choices when deciding cases.<sup>38</sup> While it is true that judicial methodology provides some important constraints – particularly the appeal system, combined with the duties to apply precedent and to provide a rational explanation of how a decision is reached<sup>39</sup> – it does not mean there is only one correct answer that can be reached. There are inevitably judicial choices that lead to different results. These choices can have significant political consequences. By way of example, how the High Court’s ‘choices’ have impacted federalism and protected certain rights will be briefly considered.

### *Federalism*

The Constitution created a federation with a central federal/Commonwealth government and state governments. To protect the autonomy of the state governments, the Constitution listed specific subjects that the federal parliament could pass legislation on, leaving everything else to the states.<sup>40</sup> The Constitution also allowed the states to continue passing legislation on most subjects allocated to the federal government.<sup>41</sup> However, once there was federal legislation, it was to prevail to the extent that there was any inconsistency with the state legislation.<sup>42</sup>

As the arbiter of the Constitution, the High Court was responsible for determining precisely how the constitutional allocation of power between the federal and state governments would work. In undertaking this task, the High Court, at first, interpreted the Constitution in a way that intentionally favoured the states. But then a choice was made to change course, and the interpretation has favoured the Commonwealth ever since. These choices will be briefly outlined. What will not be addressed – but is worthy of further study – is whether these choices have played a pivotal role in emasculating the powers of the states to an extent unforeseen by the founding fathers<sup>43</sup> or whether they are better understood as reflecting broader

37 *South Australia v The Commonwealth of Australia* (1942) 65 CLR 373, 409.

38 See Williams, Brennan and Lynch 2018, 172.

39 Gleeson 2008, 25–6.

40 See in particular sections 51, 52, 106, 107 and 108 of the Constitution.

41 Some subjects are exclusively Commonwealth, such as those set out in section 52.

42 See section 109 of the Constitution.

43 Allan and Aroney 2008.

historical changes that, in reality, were responsible for the shift in ‘power and authority to the centre of Australian governance.’<sup>44</sup>

The first doctrine or rule developed by the High Court to help explain how power was to be allocated between the federal and state governments was the ‘implied immunity of instrumentalities.’ Inspired by US jurisprudence, this doctrine was based on the notion that each government was sovereign and, as such, neither the Commonwealth nor the states could tell the other what to do unless the Constitution expressly allowed them to do so.<sup>45</sup> This meant, for example, that the states and Commonwealth could not tax each other<sup>46</sup> and a union representative for a state government agency could not be registered under Commonwealth labour laws.<sup>47</sup>

The second interpretative tool developed by the early High Court was the ‘reserved state powers doctrine.’ As explained by Blackshield and Williams, this meant that:

the Constitution had impliedly ‘reserved’ to the States their traditional areas of law-making power, and hence that the grants of law-making power to the Commonwealth must be narrowly construed so as not to encroach on these traditional powers of the States.<sup>48</sup>

This doctrine unequivocally favoured the state governments as it was premised on the assumption that the states would continue to be the forum in which the majority of policy decisions were made. Combined with the implied immunity of instrumentalities, it supported the status quo – the status quo at that time being powerful state governments with a federal government largely limited to matters of a genuinely national nature (as the subjects allocated to the federal government in the Constitution were thought to be).

However, the High Court’s early choice to protect the power of the states was not universally popular. After the appointment of further High Court justices and the retirement or death of the three initial judges who had created the two doctrines, a choice was made to interpret the Constitution in a very different way. This choice is most clearly seen in the iconic case of *Amalgamated Society of Engineers v Adelaide Steamship Co. Ltd* (the *Engineers* case).<sup>49</sup>

In the *Engineers* case the High Court rejected the implied immunity of instrumentalities and reserved state powers doctrines. Based on English/Imperial

44 Selway and Williams 2005.

45 *Attorney-General (NSW) v Collector of Customs for NSW* (1908) 5 CLR 818 (*Steel Rails*).

46 *Baxter v Commissioners of Taxation (NSW)* (1907) 4 CLR 1087; *D’Emden v Pedder* (1904) 1 CLR 91; *Deakin v Webb* (1904) 1 CLR 585.

47 *Federated Amalgamated Government Railway and Tramway Service Association v New South Wales Railway Traffic Employees Association* (1906) 4 CLR 488 (*Railway Servants*).

48 Williams, Brennan and Lynch 2018, 280.

49 *Engineers* (1920) 28 CLR 129.

jurisprudence, it chose to view the Constitution as an Imperial statute (which it technically was, having been passed by the Imperial parliament in England) rather than a federal compact. On this view, the Imperial parliament was simply distributing power between the federal and state governments. The governments were not in competition with each other, in the sense that the grant of power to one should not be viewed as diminishing the power of the other.<sup>50</sup> While, strictly speaking, this change in approach did not necessarily favour the federal government, history has shown that it has. This is because the court has generally been willing to read the powers given to the federal government expansively, with the result that the federal government has been able 'to advance into areas previously held to be within the powers reserved to the state legislatures'.<sup>51</sup> Examples of such advancement include areas where the federal government has been able to rely on its power to legislate in respect of 'external affairs' to:

- pass racial discrimination legislation applying across Australia<sup>52</sup>
- stop the building of a dam by the Tasmanian government in Tasmania<sup>53</sup>
- prevent the forestry operations and the construction of roads in Tasmanian forests<sup>54</sup>
- impose throughout Australia a minimum wage, equal pay, unfair dismissal and parental leave.<sup>55</sup>

The federal government has also been able to rely on its power over 'foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth' to:

- regulate the trading activities of a corporation even though those activities only occur within one state and even though another power given to the Commonwealth only applies to 'trade and commerce with other countries, and among the States'<sup>56</sup>
- pass the *Workplace Relations Amendment (Work Choices) Act 2005* (Cth), which was intended to apply to up to 85 per cent of the Australian workforce and fundamentally reshape industrial relations in Australia (it was, however, repealed when there was a change of government).<sup>57</sup>

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50 Selway and Williams 2005, 480.

51 Selway and Williams 2005, 480.

52 *Koowarta v Bjelke-Petersen* (1982) 153 CLR 168.

53 *Commonwealth v Tasmania* (1983) 158 CLR 1 (*Tasmanian Dam*).

54 *Richardson v Forestry Commission* (1988) 164 CLR 261.

55 *Victoria v Commonwealth* (1996) 187 CLR 416 (*Industrial Relations Act*).

56 *Strickland v Rocla Concrete Pipes Ltd* (1971) 124 CLR 468.

57 *New South Wales v Commonwealth* (2006) 229 CLR 1 (*Work Choices*).

### *Rights protection*

Unlike other English-speaking democracies, Australia does not have a constitutional or statutory bill of rights at the federal level. This omission was intentional. With the exception of a few express protections,<sup>58</sup> Australia's founding fathers wanted to limit the ability of the courts to interfere with legislative decisions on policy issues, such as, for example, the ability to discriminate on the basis of race as reflected in the since abandoned White Australia policy. Further, the omission of a bill of rights can be said not only to reflect a political decision as to where most policy decisions should be made (the legislature) but also to provide an indication of what type of rights are likely to be protected (those favoured by the voting constituents, who were, at the time of Federation, predominantly white males).<sup>59</sup>

Yet, despite the judgement at Federation that the legislature(s) was primarily responsible for determining the type of rights that were worthy of protection and those that may be compromised for the greater good, decisions of the High Court have nevertheless limited some of the choices available to the legislature. As discussed, the High Court's interpretation of the Constitution has meant that Australian legislatures are unable to pass legislation that takes away the defining and essential characteristics of the courts. Maintaining these characteristics – such as the court's ability to provide natural justice or procedural fairness – not only protects the ongoing existence of the courts but also has a derivative effect in that it helps ensure that when a claim is brought before a court, whether by the executive against an individual or an individual against the executive, the individual receives a fair hearing (or at least a base level of fairness).

The courts' role in enforcing the rule of law and, in particular, ensuring that the executive government complies with the law also saw the High Court at the beginning of the 21st century introduce a new implication derived from the Constitution.<sup>60</sup> That implication was 'an entrenched minimum provision of judicial review' over executive decision making. It effectively means that the legislature is unable to pass legislation that prevents the courts from deciding whether the executive has acted within the law. While the implication helps to ensure that the courts continue to operate as part of a system of checks and balances against arbitrary power, it also has the derivative effect of providing a limited form of rights protection. This protection is found in the fact that an individual will ordinarily be able to challenge the legality of any executive decision that is made specifically about them. However, it is a limited protection as the absence of a bill of rights means the legislature can still pass laws that restrict an individual's substantive rights, making it more likely that adverse executive decisions will be lawful.

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58 Such as sections 80, 92 and 116 of the Constitution.

59 Galligan and Morton 2017.

60 *Plaintiff S157/2002 v Commonwealth of Australia* (2003) 211 CLR 476 (*Plaintiff S157*). This implication was extended to state Supreme Courts in *Kirk v Industrial Court of New South Wales* (2010) 239 CLR 531.



Perhaps most controversially, and in what can be termed the second major period of constitutional transformation (after the *Engineers* case and the cases that immediately followed it),<sup>61</sup> the High Court has more recently found in the Constitution an implied freedom of political communication<sup>62</sup> and an implied right to vote.<sup>63</sup> In effect, the High Court has recognised and enforced a constitutional commitment ‘to certain fundamental freedoms or democratic values’.<sup>64</sup>

The High Court’s commitment to such values has seen it find numerous pieces of legislation invalid. It has, for example, held legislation invalid when it:

- imposed a criminal penalty for publicly criticising the workings of government<sup>65</sup>
- limited political advertising while also establishing a system of free political advertising that favoured the established parties<sup>66</sup>
- prevented prisoners subject to relatively short periods of imprisonment from voting<sup>67</sup>
- reduced the period in which voters could enrol to vote after an election had been called<sup>68</sup>
- capped political donations and limited electoral campaign spending.<sup>69</sup>

However, as interpreted by the High Court, the commitment to freedom of political speech and the right to vote is not without limitations. This is evident in a number of cases where the High Court has chosen not to hold legislation, or the regulations made under legislation, invalid even though political communication or the right to vote was or may have been impeded. The court justified these decisions on the basis that, in the particular circumstances faced, the legislation was a proportionate or ‘appropriate and adapted’ means of achieving legitimate legislative goals. Such goals have included:

- protecting the safety of the public<sup>70</sup>
- enabling electoral rolls to be up to date prior to the opening of polling<sup>71</sup>
- providing limitations on the ability of property developers to make political donations.<sup>72</sup>

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61 Roux 2015, 1.

62 *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106; *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1.

63 *Roach v Electoral Commissioner* (2007) 233 CLR 162.

64 Williams, Brennan and Lynch 2018, 1328. See also Patapan 2000.

65 *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1.

66 *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106.

67 *Roach v Electoral Commissioner* (2007) 233 CLR 162.

68 *Rowe v Electoral Commissioner* (2010) 243 CLR 1.

69 *Unions NSW v New South Wales* (2019) HCA 1; *Unions NSW v New South Wales* (2013) 252 CLR 530.

70 *Levy v Victoria* (1997) 189 CLR 579.

71 *Murphy v Electoral Commissioner* (2016) 334 ALR 369.

72 *McCloy v New South Wales* (2015) 257 CLR 178.

Perhaps somewhat ironically, it is in the cases in which legislation has been upheld that the inherently political nature of the High Court's role in formulating and applying the freedom of political communication and the right to vote is most clear. This is because in applying the 'appropriate and adapted' test the High Court judges are openly balancing the policy goals that the legislature has sought to achieve against their own assessment of the effect on, and value of having, an ability to vote or freedom of political communication.

## Conclusions

While the courts' role in Australia can be simply described as interpreting and applying the law, in reality it is far more complex. This complexity is due to the myriad controversies that the courts must adjudicate upon, necessitating a combination of generalist and specialist courts that all sit within a hierarchy in which they are ultimately answerable to the High Court. It is also complex because choices may be made, particularly by the High Court when interpreting the Constitution, that have far reaching repercussions. These repercussions can extend to a change in the balance of power between state and federal governments or the protection of some rights from legislative encroachment.

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# Federalism



# Commonwealth–state relations

Alan Fenna

## Key terms/names

block grants, co-operative federalism, collaborative federalism, competitive federalism, concurrent powers, conditional grants, division of powers, exclusive powers, executive federalism, judicial review, fiscal equalisation, laboratory federalism, vertical fiscal imbalance

One of the defining features of Australian government and an important factor in Australian politics is the country's federal system. Like other federations such as the USA, Canada, Switzerland, Germany and India, Australia has two constitutionally defined levels of government: the Commonwealth and the states. Each is accountable to the citizens and empowered to make and implement policy. This distinguishes Australia from unitary countries such as the UK, New Zealand, France, Sweden and Indonesia, where all sovereign power is held by one national government.<sup>1</sup>

Federations also differ greatly from one another, with some, such as Canada, preserving a quite decentralised character while others, such as Australia, have experienced considerable centralisation over time.<sup>2</sup> The Commonwealth govern-

Fenna, Alan (2019). Commonwealth–state relations. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

1 Hueglin and Fenna 2015. Such unitary states may have significant regional governments – as the UK has had since 'devolution' created parliaments in Scotland and Wales – however, those only exercise authority delegated to them by the national parliament.

2 Fenna 2019; Lecours 2019.

ment plays a far broader role in Australian governance than it did a century ago or than was envisaged when the Constitution was written. This means that Australian federalism functions not only in a more centralised way, but also in a way that is messier and more opaque to the public. With both levels of government operating in many policy fields, who does what and who should be held accountable is often not at all clear.

Understanding the day-to-day functioning of Australian federalism and the periodic issues and conflicts that arise means understanding the constitutional framework; the way that framework has been interpreted over the years by the High Court; the way financial resources are shared between the Commonwealth and the states; the attitude of the political parties to the federal system; and the network of intergovernmental relations that has evolved in response to growing overlap and entanglement between the Commonwealth and the states.

Today, Australia struggles with how the two levels of government should fund themselves and co-ordinate their respective roles and responsibilities. Those challenges, in turn, lead to a set of underlying questions about the costs and benefits of federalism: what advantages does a system of divided jurisdiction provide Australia and do those outweigh any disadvantages?

#### Origins and design

Australia is a classic example of an aggregative or ‘joining together’ federation, where a group of independent territories decide that they would be better off in some kind of union. Delegates from Britain’s Australian colonies met in a series of constitutional conventions during the 1890s to design a federal system that would create a new overarching government – the Commonwealth – but leave the states with the bulk of the responsibilities they had exercised as self-governing colonies. A draft Constitution was eventually produced, put to the voters in colony-by-colony referendums and, once approved, sent to London to be passed into law by the British parliament.<sup>3</sup> Australia’s federal system is still composed of the six original states, though there are now also two territories. While the Australian Capital Territory and the Northern Territory (NT) sometimes participate in the day-to-day operation of the federation like states, both remain under the authority of the Commonwealth and have no independent constitutional status.<sup>4</sup>

#### *Federation*

By 1890, all of the Australian colonies except Western Australia (WA) had enjoyed self-government under their own constitutions and through their own parliaments

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3 Hirst 2000; Hudson and Sharp 1988; Irving 1997; La Nauze 1972.

4 Statehood for the NT is mooted from time to time; see Harwood, Phillimore and Fenna 2010.



for more than a generation. They could have continued in that fashion, eventually achieving full independence from Britain, but they decided to pursue a federal union instead. There was no pressing need to do so, but a combination of growing national sentiment, a sense of economic advantage and a desire for greater strategic clout provided sufficient motivation. A Constitution was soon drafted, but enthusiasm waned, and it was not until the end of the decade that a final text was agreed upon. After passage by the British parliament as the Commonwealth of Australia Constitution Act, it came into effect on 1 January 1901.

This created a system in which two levels of government, the Commonwealth and the states, have constitutionally guaranteed status. A provision was made for the territories (section 122). Local government was not mentioned at all; thus, as explained below, local governments were left entirely as subordinate entities of their respective state governments. Periodic attempts are made to give local government constitutional status; however, so far these have come to nought.<sup>5</sup>

#### *The division of powers*

Key to the federal system that the framers envisaged was the division of powers. Which tasks would be assigned to the Commonwealth and which left to the states? The general consensus was that almost all functions internal to the operation of each state should remain the responsibility of the states. The Commonwealth was assigned primarily those powers necessary for cementing the union and managing relations with the outside world.

Following the American example, which they drew on extensively, the framers decided to accomplish this by creating, in section 51, a single list of areas in which the Commonwealth was permitted to legislate and simply leaving the states with an open-ended grant of unspecified powers (section 107). Thus, section 51 was a limited list of powers intended to confine the Commonwealth to a set range of tasks.<sup>6</sup> Moreover, section 51 deliberately did not make the powers of the Commonwealth exclusive. Unless otherwise indicated, the Commonwealth's powers are held *concurrently* with the states. However, another clause, section 109, was inserted to give the Commonwealth paramourcy in regard to those concurrent powers. And elsewhere in the Constitution a handful of powers were made exclusive to the Commonwealth. Among those was the authority to 'raise or maintain any naval or military force' (section 114) and to 'coin money' (section 115).

The framers intended that any power not mentioned in section 51 would be entirely the responsibility of the states. These included a wide range of important government functions, such as: land management; environmental protection; education, social services and health care; transport and infrastructure; law enforcement; and local government.

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<sup>5</sup> Expert Panel on Constitutional Recognition of Local Government 2011; Grant and Drew 2017.

<sup>6</sup> Aroney 2009, 276.

In summary, then, there was a handful of exclusive Commonwealth powers; a larger list of concurrent powers, with the Commonwealth enjoying paramountcy; and an open-ended set of implicitly exclusive state powers. The idea was that the two levels of government would operate, for the most part, in their own spheres, with minimal overlap and thus minimal need for co-ordination. It was envisaged as a relationship between what pioneering federalism scholar K.C. Wheare characterised as ‘distinct and co-ordinate’ governments.<sup>7</sup>

### *Safeguards*

A division of powers is not, in itself, a guarantee that the two levels of government will respect each other’s jurisdiction. The framers included other components to assist in that task – three most importantly. One was a powerful upper house (inspired by the US example), the Senate, where the states would have equal representation. A second was an ‘umpire’ of sorts: the High Court of Australia. The High Court is empowered to strike down legislation by either level of government that transgresses the division of powers, and its decisions are ‘final and conclusive’. A third was a procedure for altering the Constitution that prevents the Commonwealth from changing the rules unilaterally. Although only the Commonwealth parliament, and not the states, may initiate an amendment, section 128 requires that any such proposal be approved by a majority of voters in a majority of states in a referendum.

That demanding amendment procedure has proven a very effective safeguard, with 36 of 44 attempts at amendment being rejected at referendum. Not all of those were proposals to alter the federal balance, but many were. Australians have only endorsed a clear transfer of authority to the Commonwealth on two occasions: in 1946 voters supported the proposal to give the Commonwealth authority to provide a wide range of social service benefits (section 51[xxiiiA]) and in 1967 voters agreed to strike out the prohibition on the Commonwealth making laws for ‘the aboriginal race in any State’ (section 51[xxvi]).

The other two safeguards have, by contrast, proven feeble. By virtue of being popularly elected, the Senate has always functioned as a second chamber for contest between the political parties, rather than as a ‘house of the states’, and has played little or no role in safeguarding the federal system. Meanwhile, the High Court has been anything but a safeguard. Rather, judicial review has provided a ‘great corrective’ to the rigidity of the Constitution represented by section 128.<sup>8</sup> We turn to that now.

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7 Wheare 1963, 2; Zines 1986, 79.

8 Menzies 1967, 152. See also Allan and Aroney 2008.

### The courts and the Constitution: judicial review

Under the Constitution, criminal and civil law are both matters of state jurisdiction; no authority in respect of either was assigned to the Commonwealth. Thus, the states have their own criminal codes and their own court systems. However, the Constitution also provides in Chapter III for ‘a Federal Supreme Court to be called the High Court of Australia’ and whatever federal judiciary the Commonwealth parliament decides to create. Under section 73, the High Court is empowered to hear appeals from state Supreme Courts, thus creating a unified legal system. And under section 74, the High Court is implicitly given jurisdiction to settle constitutional conflicts between the Commonwealth and the states.

Although the High Court is tasked with being the ‘umpire’ of Australia’s federal system, it was not made entirely neutral. Under section 72, the justices of the High Court are ‘appointed by the Governor-General in Council’ – which effectively means the prime minister. In other words, appointment is controlled not just by one side to possible disputes, the Commonwealth, but by the executive branch of that side alone. Here, the framers departed from the American example, where Supreme Court appointments have to be approved by the Senate.

### *How to interpret a constitution?*

Constitutions are but words on paper; quite what those words mean, and how they apply in varying situations, is open to interpretation. Interpretation is particularly tricky in the case of constitutions because such ‘founding documents’ have a special status, often seen as providing guarantees of lasting application to preserve the terms of the original agreement. One approach to their interpretation, then, is to go beyond what a constitution says on face value and take into account what was *originally intended* (originalism). A quite different approach is to reject attempts at reconstructing original intent and assume that it was up to the framers to articulate their vision through words that will speak for themselves, as *literally* read. And even further from the approach of originalism is the view that constitutions must be fit for purpose and that their clauses should be interpreted in whatever reasonable way best suits current needs.

### *Judicial reasoning*

Even presuming that there is consensus on which approach to take, abundant scope remains for differing views about how any particular clause should apply in any given situation. Legal reasoning relies heavily on *stare decisis*, or ‘precedent’: the rules established in previous judgements.

The appellate structure of the judiciary has long been fundamental to the provision of consistent and wise justice in our system. Cases typically begin in lower courts and can be appealed to higher ones, perhaps to the very highest one. In

the process, a uniform or ‘common’ law is produced, since anomalies in any one judgement will be overturned at the next level. The High Court occupies a privileged position in this hierarchy since its judgements cannot be appealed; its decisions are final. This gives the High Court a unique ability to defy – and thus change – precedent, should the judges so decide. This happened very dramatically in Australia when the High Court decided in the 1992 *Mabo* case that the legal doctrine of terra nullius should no longer be accepted as valid.<sup>9</sup> As a consequence, Australia had to start recognising some form of land rights for Aboriginal and Torres Strait Islander people.<sup>10</sup> This, in turn, had a direct impact on Commonwealth–state relations since it meant that the states had to defer to the Commonwealth over land-rights claims.

The absence of further appeal means that the High Court carries a heavy burden, being expected to ‘get it right’. Under existing legislation, the High Court is made up of seven judges and operates on a ‘majority rules’ basis. Cases may be decided 7 to 0, 6 to 1, 5 to 2, or 4 to 3. There is a chief justice, but he or she holds only an ordinary vote, like any of the others. Dissenting opinions – that is, those in the minority in any given decision – may well have a significance of their own if they express views that are ahead of their time and that later provide the intellectual basis for a switch in the court’s stand.

#### *Centralisation and judicial review*

The High Court has been resolving disputes about the division of powers since it commenced operation in 1903. For the first decade or more, the court was made up of leading figures from among those who had drafted the Constitution. Not surprisingly, an originalist mode of interpretation prevailed, emphasising what the framers had *intended*. Most importantly, this meant defending the states’ jurisdiction against Commonwealth encroachment and maintaining the ‘federal’ character of the Constitution, as the judges knew was intended. In the process, the court developed doctrines such as those of ‘implied immunities’ and ‘reserved powers’, asserting that even if the Constitution did not explicitly protect the states, its federal nature required and *implied* such protection.<sup>11</sup>

All of this changed in 1920, with the watershed decision in the *Engineers* case.<sup>12</sup> In this case, the court declared that interpretation had to rely on the words of the Constitution alone, read like any other statute. Implications were out. Because the Constitution was not fortified with explicit statements about its federal character, this new approach opened the door to an expansive interpretation of Commonwealth powers that has prevailed ever since.<sup>13</sup>

9 *Mabo v Queensland (No 2)* (1992) 175 CLR 1 (*Mabo*); Russell 2006.

10 Brennan et al. 2015; *Native Title Act 1993* (Cth).

11 Aroney 2017, 53.

12 *The Amalgamated Society of Engineers v Adelaide Steamship Co Ltd.* (1920) 28 CLR 129 (*Engineers*).

13 Aroney 2017, 54.

*Key cases*

Soon after *Engineers*, the Commonwealth discovered that it could intervene in areas of state jurisdiction by offering the states cash grants with conditions attached (see below). This was challenged by the states in the *Roads* case, but the High Court decided that the Commonwealth's power to impose conditions on the states when making grants was incontestable under section 96 of the Constitution.<sup>14</sup> Section 96's enormous centralising potential was made evident in the *Uniform Tax* case of 1942, when the court decided that the Commonwealth could use that power to take personal and corporate income tax from the states.<sup>15</sup> A condition of receiving further grants was that the states entirely cease from levying income tax on their residents, and the court ruled that this was constitutional under section 96's sweeping terms. As discussed below, this gave the Commonwealth a tremendous financial lever in its relations with the states.

In the *Racial Discrimination Act* case of 1982 and *Tasmanian Dams* case of 1983, the court decided that the Commonwealth's power to legislate for 'external affairs' (section 51[xxix]) meant that it could override the states on any domestic matter that had become subject to international treaty.<sup>16</sup> This allowed the Commonwealth's *Racial Discrimination Act* 1975 (Cth) and its natural heritage protection initiatives to trump state laws in respect of land use. In the *WorkChoices* case of 2006, the court decided that the 'corporations' power (section 51[xx]) allowed the Commonwealth to enact wide-ranging laws in respect of industrial relations.<sup>17</sup>

## Fiscal federalism

Much – though not all – of what government does requires money, sometimes large amounts of it. Having constitutional licence or even responsibility to do something is not the same as having the *capability* to do that thing. Governments need financial resources to fulfil their responsibilities and to enjoy an autonomous existence. One of the principles of federalism is that the different governments have a degree of financial independence that allows them to make their own decisions and be accountable for those decisions to their own voters. This operates vertically and horizontally. In the vertical plane, does each level of government have access to resources commensurate with its responsibilities? In the horizontal plane, are there measures in place to ensure a common standard of capability in all the different

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14 *The State of Victoria and Others v Commonwealth* (1926) 38 CLR 399 (*Roads*), where the issue was interference in state decisions about new roads. Section 96 declares that 'the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit'.

15 *The State of South Australia v Commonwealth* (1942) 65 CLR 373 (*Uniform Tax*).

16 *Koowarta v Bjelke-Petersen* (1982) 153 CLR 168 (*Racial Discrimination Act*); *The Commonwealth of Australia v Tasmania* (1983) 158 CLR 1 (*Tasmanian Dams*).

17 *New South Wales v Commonwealth of Australia* (2006) 229 CLR 1 (*WorkChoices*).

states? As it turns out, in Australia the answer to the first question is ‘no’ and the answer to the second question is ‘yes, but there can be conflict’.

### *Controlling the revenue*

The Constitution gives both levels of government full access to all revenue sources except ‘duties of customs and of excise’ (section 90). Customs and excise were made exclusive to the Commonwealth to ensure that Australia enjoyed the economic benefits of internal free trade.<sup>18</sup>

However, things turned out a bit differently. First, the High Court started interpreting the prohibition on state ‘excise’ taxes in a way that covered any sales tax, depriving the states of a major and quite economically efficient revenue base.<sup>19</sup> Then, in 1942, the High Court endorsed the Commonwealth’s takeover of personal and corporate income tax in the *Uniform Tax* case. Since then, the Commonwealth has enjoyed a stranglehold over revenue in the federation. This is why, in contrast with the situation in Canada or the USA, Australians pay no state income tax and no state sales tax. It is also why the states impose socially and economically inefficient taxes, such as stamp duty, and it helps explain why they are generally so willing to condone gambling.

The result is a high degree of *vertical fiscal imbalance* (VFI), where the Commonwealth collects far more in tax than it requires for its own purposes and the states have expenditure needs far in excess of their tax revenue. This led to the states being dependent on annual transfers from the Commonwealth for roughly half of their revenue. Occasionally, proposals are made to restore some financial balance to the federation, but so far none have generated any momentum.<sup>20</sup> In 1999, the Commonwealth and the states did agree that the proceeds from the Goods and Service Tax (GST) that the Commonwealth was introducing would go to the states.<sup>21</sup> However, this merely replaced one set of Commonwealth transfers with another.

### *Commonwealth grants*

The Commonwealth could simply hand back to the states the surplus revenue it collects, and, indeed, a substantial amount is transferred in that way (GST revenues). However, it was not long before Commonwealth governments realised that by making grants to the states for certain defined purposes, or with certain conditions attached, they could start to influence or even control what the states did

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18 For an overview of the dilemmas faced by the founders, see Saunders 1986.

19 Culminating in the decision in *Ha and Another v The State of New South Wales and Others* (1997) 189 CLR 465, which prompted the Commonwealth to compensate the states by hypothecating the total net revenue of the proposed GST to them. Saunders 1997.

20 Fenna 2017.

21 *A New Tax System (Commonwealth–State Financial Arrangements) Act 1999* (Cth).

in their own areas of jurisdiction. By such means, they would be able to circumvent the limitations imposed by the federal division of powers. Since the early 1970s, these *specific purpose payments*, or ‘tied grants’, have proliferated and made possible the expansion of Commonwealth power across a wide range of policy fields, the largest being health and education. Today, just over 50 per cent of Commonwealth transfers to the states come in the form of unconditional revenue from the GST and just under half come in the form of grants for specified purposes. Reforms have occurred, but it is not clear how profound they have been.

#### *Reform and regression in the grants system*

Recognising the distortions this tangle of conditional grants imposed on Australian federalism, the newly elected Rudd Labor government introduced a suite of reforms in 2009. These collapsed almost a hundred conditional grants, some of them highly prescriptive, into a handful of *block grants*, each allocated to a broad policy domain. The idea was that instead of answering to the Commonwealth for various requirements attached to each grant, the focus would shift to expectations about how much the states would accomplish in those fields.<sup>22</sup>

But for this to work, there had to be a way of measuring how much the states were accomplishing and how much their performance was improving over time. The states and the Commonwealth agreed to assign this task to a joint body that would benchmark the performance of each state across the wide range of policy fields covered by the new system of block grants.<sup>23</sup> The Council of Australian Governments (COAG) Reform Council made a brave effort, but it was an ambitious undertaking, requiring methodical work, and progress was slow. In 2014, after only a few years of operation, the council was abruptly and unilaterally terminated by the incoming Abbott Coalition government. It had also become clear that although the existing tangle of conditional grants had been pruned back, there was nothing to stop new ones appearing.

#### *The equalisation system*

All federations are torn between the principle that each of their constituent units has some responsibility for its own economic and financial success and the principle that citizens should receive a comparable quality of public services regardless of where in the country they live. In Australia, the latter principle has dominated. A highly developed system of *horizontal fiscal equalisation* (HFE) allocates GST revenues to each state according to their respective needs and capabilities.<sup>24</sup>

22 Department of the Treasury 2009; Fenna and Anderson 2012; *Federal Financial Relations Act 2009* (Cth).

23 Fenna 2012.

24 Commonwealth Grants Commission 2017.



The Commonwealth Grants Commission uses a complex formula to make recommendations to the federal treasurer for GST distribution each year. That formula takes into account the particular spending needs of each state and territory – a jurisdiction with proportionally larger disadvantaged populations, for instance, will have greater spending needs. And on the other side, the formula takes into account each jurisdiction's revenue-raising capacity. As long as the differences are not great, the system works reasonably well. However, when, as in the last decade, they have widened and shifted, conflicts arise.

*Conflict and compromise in the equalisation system*

Historically, the two big states, home to most of Australia's population and manufacturing industry, have been the 'donor' jurisdictions. New South Wales and Victoria have long received slightly less than their per capita share of the unconditional transfers so that the smaller and less advantaged states and territories could be subsidised. It was generally a small price to pay. When the mining boom began in the early 2000s, WA's huge increase in royalty earnings caused it to join the ranks of the donor states. Because its population was so much smaller, however, the reduction in WA's GST allocation was proportionally much greater. By the time the mining boom had ended, the Grants Commission's calculations left WA eligible for only 30 per cent of its *per capita* share.

Inquiries into GST distribution have been launched twice in recent times, but finding a compromise acceptable to the Commonwealth, the donor states and the beneficiary states and territories is inherently difficult.<sup>25</sup> Eventually, the Commonwealth agreed to ameliorate the situation by establishing a 'floor' under which a state's per capita GST share would not be allowed to fall and promising an injection of Commonwealth funds, with legislation being passed in mid-2018.<sup>26</sup>

Who stands up for federalism?

These centralising developments remind us that, to stay intact, any set of institutional arrangements needs powerful friends. For a long time, Australian federalism could count to a reasonable extent on the Liberal Party. In part, this was because of the affinity between the Liberal Party's ideology and federalism. Federalism's division of powers and constitutional constraint went hand-in-hand with liberalism's belief in the rule of law, individual rights and limited government. More importantly, though, Australia's federal system provided a bulwark against the Labor Party's ambitions for activist or interventionist government. At key moments in the 20th

25 GST Distribution Review 2012; Productivity Commission 2018.

26 *Treasury Laws Amendment (Making Sure Every State and Territory Gets Their Fair Share of GST) Act 2018* (Cth).



century, Labor was prevented from pursuing its policies by the limits on Commonwealth government jurisdiction.<sup>27</sup>

However, this was never going to translate into a consistent, principled, defence of states' rights and the federal system. When in government in Canberra, the Liberal Party itself inevitably has national policies it wants to introduce, policies that will often involve an expansion of Commonwealth influence.<sup>28</sup> Labor's hostility to federalism eventually diminished as their interventionist ambitions declined and tied grants increasingly proved themselves an effective work-around.<sup>29</sup> The Liberal Party's support for federalism accordingly also declined – to the point where two successive Liberal prime ministers (John Howard and Tony Abbott) were openly critical and decidedly centralising.<sup>30</sup> This disdain was consistent with the growing impatience big business was showing towards the inconveniences of federalism as more firms came to operate across states and the Australian economy became increasingly integrated. Their call was for a 'seamless economy'.<sup>31</sup>

#### Intergovernmental relations (IGR)

Almost a century now of centralisation since the *Engineers* case has left Australia with a federal system where, instead of operating in their own spheres, the two levels of government are deeply entangled. The states have retained most of their original responsibilities, but the Commonwealth now plays a role in almost all of those areas. There are now education, health, local government and social service departments, as well as environmental protection agencies, at both levels of government although each of those was originally state jurisdiction. As we have seen, this high degree of overlap has resulted, most importantly, from the Commonwealth's financial superiority and the ability that gives the Commonwealth to provide conditional grants to the states. In such a deeply entangled system, mechanisms for co-ordination and collaboration between the two levels of government are essential. The general term for this is *co-operative federalism* – meaning that ongoing co-operation is required, but not meaning that it is achieved without conflict.

#### *Australia's IGR system*

Since 1991, in particular, Australia has developed a sophisticated network of co-operative mechanisms. At the apex is COAG, the Council of Australian Governments. COAG is a periodic meeting of the Commonwealth and the state and

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27 Galligan 1987.

28 Sharman 2001, 287.

29 Galligan and Mardiste 1992; cf. Parkin and Marshall 1994.

30 Hollander 2008.

31 For example, Business Council of Australia 2008.

territory heads of government (along with the president of the Australian Local Government Association) where major intergovernmental issues are considered. Answering to COAG are a clutch of ministerial councils bringing together all the responsible ministers in the main portfolio areas from across the country. In addition, a number of statutory agencies have been established to administer joint programs or oversee joint policies. Many of the new and complex relationships between the two levels of government in different policy fields are regularly formalised in intergovernmental agreements. While legalistic in style, these are not legally binding or enforceable.

COAG, it must be remembered, is only a brief and occasional meeting held when the prime minister decides, and the Commonwealth dominates. For a few years, there was an organisation through which the states tried to co-ordinate joint action and positions on national issues: CAF, the Council for the Australian Federation.<sup>32</sup> Joint action by the states would have provided some counterweight to that Commonwealth dominance. However, such joint action has proved very difficult to maintain.

#### *Co-operative federalism*

The formalisation of Australia's longstanding practice of summit meetings between the prime minister and the premiers as COAG in 1991 was the beginning of a new and much more active period in Australian intergovernmental relations. Since then, co-operative federalism has waxed and waned. Through the 1990s, Australian governments worked more closely and sometimes collaboratively in an effort to make Australian federalism operate more effectively and efficiently.<sup>33</sup> Enthusiasm for co-operative federalism faded somewhat under the Coalition government of 1996–2007, in part because of partisan differences with Labor governments at the state level. However, it surged to a new highpoint with the election in 2007 of the Rudd government, when, for a brief time, it was 'wall-to-wall' Labor governments across the country. COAG met frequently and the two levels of government worked energetically to improve the functioning of Australia's federal system.

Generally, a well-functioning system of *executive federalism* is seen as a good thing. However, questions are sometimes raised about the extent to which it removes political decision making from the purview of the people's representatives in parliament.

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32 Phillimore and Fenna 2017; Tiernan 2008.

33 Painter 1998.

## The future of Australian federalism

Despite the enormous change that has taken place in Australian federalism over the past century, the states still play a large role, particularly in delivering public services. State governments manage their respective hospital and government school systems, plan and construct transport infrastructure, manage their state's energy utilities, and control most of the policing and criminal law. However, they are dependent on Commonwealth funds for a good part of that and carry out those tasks in ways greatly influenced by Commonwealth policy decisions. The result is a system that is anything but 'distinct and co-ordinate'. The entanglement of the two levels of government regularly elicits criticisms and complaints of overlap and duplication, blame- and cost-shifting, blurred lines of accountability and inefficiency. It raises the question of whether Australia should rehabilitate, re-engineer or retire its federal system.

*What's the use of federalism?*

Federalism came into being in Australia and elsewhere not because it was seen as conferring any special benefits, but simply because it allowed pre-existing regional communities to retain a degree of autonomy while gaining the advantages of being part of a larger entity. Since then, the case has often been made that federalism is desirable in itself and should be preserved as much as possible. This is particularly relevant in the Australian case since the Australian states are not distinct cultural or linguistic communities that require the autonomy federalism provides – as is often the case overseas.

One argument is that by creating multiple governments, federalism multiplies the opportunities for democratic participation and engagement.<sup>34</sup> Another is that by imposing limits on actions of the respective levels of government, federalism provides enhanced protection for individual rights.<sup>35</sup> A third is that federalism allows for variation in public policy across the country instead of a 'one-size-fits-all' approach. Another concerns *competitive federalism*: state governments are subject to pressure to perform since their citizens can compare across jurisdictions and even move out of state if they are sufficiently unhappy. And another is that federalism allows for experimentation and learning in public policy, with opportunities for new ways of doing things to be tried in any of several jurisdictions. In effect, policies can thus be 'tested' before being adopted more widely, hence the term *laboratory federalism*. All these possible benefits of federalism require that the states retain a substantial degree of autonomy and policy independence.

All of them are also, however, merely propositions, and the extent to which federalism actually does deliver these benefits is an open question. In addition, critics often emphasise disadvantages to federalism. These include the tendency for overlap

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34 Galligan 1995, 38–53.

35 Galligan 1995, 142–7.

and duplication between the levels of government and for ‘blame-shifting’ and ‘cost-shifting’. With the Commonwealth having extended its role, activity and influence into so many areas of state jurisdiction, overlap and duplication are unavoidable. Sometimes it might be wasteful and inefficient; sometimes, though, it may provide a double protection that citizens appreciate.<sup>36</sup> Similarly, the extent to which blame- and cost-shifting are serious problems is also very much an open question.

Another limitation of federalism is that, although it allows for subnational autonomy in political systems, it only does so for territorially defined communities. Federalism offers little for groups in society that are dispersed rather than territorially concentrated. With the occasional exception such as Nunavut in northern Canada, indigenous people are thus rarely in a position to achieve the kind of autonomy and degree of self-determination that federalism offers.<sup>37</sup>

#### *Where to now?*

Numerous inquiries and commentaries have suggested that Australian federalism be ‘reformed’ by rationalising the roles and responsibilities of the two levels of government. Ideally, overlap and duplication would be minimised and each level of government would take responsibility for the tasks to which it is best suited. There has even been suggestion that Australia should return to a simpler age of a more co-ordinate style where clearer lines of division between the two levels of governments are re-established.<sup>38</sup> In 2014, incoming Coalition Prime Minister Tony Abbott announced a high-level and comprehensive inquiry into the matter.<sup>39</sup> That inquiry got as far as releasing a preliminary report but was terminated by Abbott’s replacement before the process could finish.<sup>40</sup> This typified the start–stop experience with federalism reform in Australia, a process that is heavily constrained by the dominant position of the Commonwealth.<sup>41</sup>

#### Conclusions

The union of Britain’s six Australian colonies in 1901 created a federal system where a constitutional division of powers allocated much of the work of government to the states while assigning certain specific functions to the Commonwealth. That system exists to this day, but has changed significantly in its operation. The Commonwealth has taken on new responsibilities and extended its influence into a wide range of areas that were originally exclusive to the states. As a consequence,

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36 Hollander 2010.

37 Hence the growing interest in potential modes of ‘non-territorial autonomy’; see Coakley 2016.

38 For example, NCA 2014; NCA 1996.

39 Prime Minister 2014.

40 Department of the Prime Minister and Cabinet 2015.

41 Fenna 2017; Tiernan 2015.

Australian federalism has been transformed from the original model, in which the two levels of government operated independently of each other, to one where there is endemic concurrency.

The Constitution lays out the legal architecture of Australia's federal system. This is most notable in section 51, enumerating the Commonwealth's powers; section 90, prohibiting the states from levying duties of customs or excise; section 96, allowing the Commonwealth to make conditional grants; sections 107 and 108, guaranteeing the states their continued existence and authority; section 109, establishing the superiority of Commonwealth law within its assigned jurisdiction; section 74, making the High Court the umpire of the federal system; and section 128, requiring support in a majority of states for constitutional change.

Although Australian federalism has changed greatly over the last century, with a couple of notable exceptions, it is not because these key provisions have been changed. Indeed, section 128's strict requirements have helped ensure that very little has been altered in the Constitution itself. Rather, change has occurred as a consequence of the way some of those provisions have been used and the way they have been interpreted by the High Court. Since the *Engineers* decision of 1920, the High Court has followed an interpretive approach supporting an expansive reading of Commonwealth powers. This has facilitated assumption of fiscal dominance by the Commonwealth, which, in turn, has given it enormous financial leverage over the states.

Whether it be in education, housing, health care, environmental protection, infrastructure or a range of other areas of governance that were originally state matters, the two levels of government are now inextricably intertwined. In tandem with that development has come the rise of co-operative federalism, where the Commonwealth and the states work to negotiate over policy and co-ordinate their actions. At the apex of that system of intergovernmental relations is COAG.

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# Australian Capital Territory

Robin Tennant-Wood

## Key terms/names

Hare-Clark, euthanasia, intergovernmental relations, Legislative Assembly, minority government, multi-member electorate, National Capital Authority, same-sex marriage, territory rights, unicameralism

It is paradoxical that the Australian Capital Territory (ACT), as the national capital and seat of the federal parliament, should have the least political representation of any state or territory jurisdiction in the country per capita. Despite having a population similar to that of Tasmania, the ACT currently has two federal electorates, two senators and a 25-member Legislative Assembly. Tasmania, by comparison, has five federal electorates, 12 senators, a 25-member lower house and a 40-member upper house, as well as 29 local government areas.

This chapter will explore the ACT's history and process of government – what can be described as Australia's only 'city state'.<sup>1</sup> In doing so, it asks a number of questions. Given the disparity in representation, is the ACT more or less effectively governed than other jurisdictions? Is its relationship with the Commonwealth government different from that of other states and territories? Situated within New South Wales (NSW), what is its political and policy relationship with that state? Are

Tennant-Wood, Robin (2019). The Australian Capital Territory. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Halligan 2015, 6.



there constitutional provisions for its government? What level of autonomy does the ACT possess for policy?

#### Historical context

The ACT is a creature of Australia's adoption of federalism in 1901. At Federation there was no officially proclaimed national capital. The first federal parliament met in Melbourne while the government decided on where to locate the capital to provide it with security and also not 'favour' either Sydney nor Melbourne. The search for a suitable place was narrowed down to a spot mid-way between the two rival cities, and the site for Canberra – on the land of the Ngunnawal people – was chosen in 1908. The territory was formally ceded to the Commonwealth by NSW in 1909. Work on the city was interrupted between 1914 and 1918 by the First World War, and parliament finally moved into its 'temporary' Parliament House in 1927; it would remain there for a further 61 years before the permanent one opened in 1988.

As a planned city that embraced modern concepts like private car ownership and suburban living, Canberra was always intended to be a showpiece – the nexus of national government in a garden city. It is the site of various national institutions and monuments, as well as the instruments of government: government departments, agencies and related bodies. During the construction of the city, most of the public service departments remained in Melbourne, but as Canberra was completed, stage by stage, the departments moved to the seat of government. This process explains why, even today, many peak bodies and lobbying organisations are still headquartered in Melbourne.<sup>2</sup> The post-Second World War years saw a very rapid increase in population with the expansion of the departments and the associated construction of housing and city amenities. Between 1955 and 1975, the population of the ACT increased by 50 per cent every five years.

During the 1970s, the population of the ACT increased to 224,000<sup>3</sup> and there was a growing push for self-government. According to Halligan and Wettenhall, there were largely two schools of thought regarding this proposal: self-government advocates believed that Canberrans, with no state or territory level of government, did not have the same democratic rights as other Australians; opponents to self-government 'preferred to trade these rights for the financial benefits that came from being a federally protected and heavily subsidized enclave within the nation'.<sup>4</sup>

In 1978, an advisory referendum was held for ACT residents on self-government. Voters were given three choices on the ballot form: retain the current arrangements; self-government; or a local council arrangement with legislative

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2 Fitzgerald 2006.

3 ABS 2012.

4 Halligan and Wettenhall 2000.

**Table 1 Results of the 1978 advisory referendum on self-government**

| Proposal             | %     | Votes  |
|----------------------|-------|--------|
| Self-government      | 30.54 | 33,480 |
| Local government     | 5.72  | 6,268  |
| Present arrangements | 63.75 | 69,893 |

Source: ACT Legislative Assembly 2015.

and executive responsibility. The result of the referendum was overwhelmingly in favour of retaining Commonwealth administration (see Table 1).

By the late 1980s, however, the ACT population had grown to almost 300,000, and the Commonwealth, despite the results of the referendum, decided that the ACT should become a self-governing jurisdiction. This required four separate Acts of the Australian government:

- *Australian Capital Territory (Self-Government) Act 1988* (Cth)
- *Australian Capital Territory (Electoral) Act 1988* (Cth)
- *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth)
- *Australian Capital Territory Self-Government (Consequential Provisions) Act 1988* (Cth).

These Acts were signed into law on 6 December 1988. The first of these is essentially the constitution of the ACT and sets out the framework for government and the system of governance. The *Australian Capital Territory (Planning and Land Management) Act 1988* oversees the ACT Plan and the Spatial Plan, which set out the development provisions for the ACT, and comes under the auspices of the National Capital Authority.

#### Self-government in the ACT

Today, the ACT is governed by a unicameral 25-person Legislative Assembly, elected under the Hare-Clark electoral system (see below). The ACT does not have its own police service; instead, general policing is carried out by the Australian Federal Police.

The government of the ACT is a hybrid organisation.<sup>5</sup> Like a state government, it is responsible for developing and implementing policy across the normal

5 Halligan 2015.

territorial responsibilities: finance and economy, justice, environment, education, health, housing and development, transport and employment. In addition, it has responsibility for municipal functions: waste management, sportsground maintenance, kerbing and guttering, development applications, and parks and gardens.

*Developments in self-government*

The first ACT election was held on 4 March 1989. It was conducted under a modified d'Hondt (party list) electoral system, the whole of the ACT comprising one 17-member electorate. The election was contested by 117 candidates, representing 22 political parties and independents.

A measure of the somewhat jaundiced view of residents towards self-government in 1989, and also reflecting the results of the earlier referendums, was that the parties contesting the election included the Surprise Party, the Sun-Ripened Warm Tomato Party and the Party! Party! Party! Further, the first House of Assembly included eight representatives from anti-self-government parties: No Self-Government, the Abolish Self-Government Coalition and the Residents Rally Party. It took almost two months to finalise the counting of votes, and the final result was a minority Labor government led by Rosemary Follett.

While Follett's government managed to navigate the first tentative steps of government, a key player in the transition to self-government was William Harris, the secretary of the Chief Minister's Department. Harris was the architect of the ACT's first budget, a 'task that involved identifying all federal government spending on the territory by dozens of departments and agencies, and then overseeing the design and establishment of a purpose-made public service to operate at both state and municipal levels'.<sup>6</sup> Over time, the ACT has managed to navigate autonomy well, consolidating its administrative functions and moving to a more stable electoral system.

Until the 2016 election, the Assembly had 17 members elected from three electorates: Molonglo, Ginninderra and Brindabella. In 2013, ACT Electoral Commissioner Philip Green held a review of the size of the Assembly. This was motivated by the expanding population, and because the ministerial responsibilities of minority government members had expanded, reducing the degree to which ministers could undertake all their duties. The report recommended that:

- the ACT Legislative Assembly be increased to 25 members at the 2016 election, with five electorates each returning five members;
- the Assembly be increased to 35 members at the 2020 election, with five electorates each returning seven members.<sup>7</sup>

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<sup>6</sup> Cooke 2016.

<sup>7</sup> ACT Reference Group on the Size of the Legislative Assembly 2013.

The government accepted the first recommendation, and, in 2015, a redistribution of electoral boundaries was held, increasing the number of electorates to five, each electing five members.

#### Electoral system

The modified d'Hondt system under which the first Assembly was elected was superseded by the Hare-Clark system. The Hare-Clark system is also used to elect the Tasmanian lower house, and is a proportional representation system using a single transferable vote (STV), where the vote transfers from candidate to candidate according to the preferences of the voter. In a five-member electorate, voters must number a minimum of five squares on the ballot paper.

The ballot form itself follows the Robson rotation system, meaning that the candidates' names in the party lists on the ballot form are rotated so no single candidate is listed at the top of every form. The 2016 election, the first with the extended Assembly, attracted 10 registered political parties and a total of 141 individual candidates. The result was a minority Labor government supported by two Greens members.

#### Intergovernmental relations

##### *Commonwealth–ACT relations*

With slight representation in the national parliament, the ACT has a complex and often fraught relationship with the federal government. Self-government saw the ACT better able to participate in Australia's system of federal intergovernmental relations, through inclusion in the peak intergovernmental relations body, the Council of Australian Governments (COAG). But the ACT suffers from 'co-location', being both Canberra-as-national-capital and Canberra-as-distinctive-entity in its own right.<sup>8</sup>

Upon self-government, the National Capital Development Commission was superseded by the National Capital Authority (NCA). The NCA is an agency of the federal government with responsibility for the ongoing development of Canberra. This authority extends to land to be released for development, the preservation of the Burley Griffin plan for the city and the maintenance of the historical integrity of the capital. The ACT government, therefore, must operate under the auspices of the NCA for all planning and development decisions.

Complicating the relationship between the ACT and federal governments is the fact that the Parliamentary Triangle comes under federal control. This area

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8 Wettenhall and Warrington 1998.

(the apex of which is Parliament House, and which is bounded by Commonwealth and Kings Avenues and the northern shore of Lake Burley Griffin) contains Old and New Parliament House, the National Library, Science Centre, Art Gallery and Archives, the High Court and several major public service buildings (including Treasury and Department of Finance, and the Australian Electoral Commission offices). It is positioned close to the centre of the city, which has considerable implications for territory planning. The ACT government has no jurisdiction within this area, with the exception of the delivery of municipal services.

#### *ACT-NSW relations*

NSW surrounds the ACT on all sides. As such, the territory must retain working relations with that state to deal with a variety of cross-boundary issues (Canberra is increasingly a conurbation that includes the town of Queanbeyan in NSW). As the largest metropolitan area in its region, Canberrans also see large numbers of people from the surrounding state using its services.

In 2016, the two jurisdictions signed a Memorandum of Understanding on Regional Collaboration to provide a structure for the joint development and implementation of policy (including co-operative consultation with stakeholders) for the region.<sup>9</sup> This builds on structures set up over recent decades, such as the NSW Cross Border Commissioner in 2012.

#### Policy issues of salience in the ACT

With a highly educated and comparatively wealthy population,<sup>10</sup> the ACT is generally held to be socially progressive.<sup>11</sup> It has led the way in recognising same-sex partnerships, waste minimisation policies and renewable energy initiatives. Greens members have been elected to the ACT parliament consistently since 1995. Except for one term (2004–08), the ACT has always had minority governments, dependent upon minor parties and independents for support in the Legislative Assembly to pass legislation and retain confidence. While tending to support Labor in government, the presence of the Greens has been significant in promoting socially and environmentally progressive policies, reflecting the ACT Greens' origins in wider social justice issues.<sup>12</sup>

The ACT's progressiveness in pursuit of public policy, however, has often been at loggerheads with more conservative federal administrations due to the subordinate position of territories in Australian federalism. The Australian

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9 ACT and NSW 2016.

10 ABS 2017.

11 Stewart 2014.

12 Miragliotta 2012.

Constitution is unambiguous in handing the right to make laws for the territories to the Commonwealth:

The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.<sup>13</sup>

Two recent policy disputes – one now resolved, one ongoing – illustrate this limit to territorial self-government.

#### *Same-sex marriage and civil unions*

In March 2004, the ACT proposed legislation to enable civil unions for same-sex couples. The legislation, which would permit civil unions to be conducted by marriage celebrants and would give same-sex couples the same legal rights and standing as heterosexual married couples, was vigorously opposed by the then federal government under Prime Minister John Howard. The attorney-general wrote to ACT Chief Minister Stanhope saying that, while the Commonwealth considered the status of same-sex relationships to be within the jurisdiction of the states and territories, it opposed any altering of the ‘status of marriage’.<sup>14</sup> Stanhope responded by amending his proposed legislation so that civil unions could not be performed by marriage celebrants, but the federal parliament, fearing that the ACT’s legislation was a step towards legalising same-sex marriage, promptly blocked it by amending the *Marriage Act 1961* (Cth) so that the definition of ‘marriage’ changed from ‘a union between two consenting adults’ to ‘a union between one man and one woman’.

In 2013, under Chief Minister Katy Gallagher, the ACT passed the *Marriage Equality Bill 2013* (ACT) in defiance of the Commonwealth.<sup>15</sup> At the time, the chief minister stated that:

We would prefer to see the federal parliament legislate for a nationally consistent scheme, but in the absence of this we will act for the people of the ACT. The *Marriage Equality Bill 2013* will enable couples who are not able to marry under the Commonwealth *Marriage Act 1961* to enter into marriage in the ACT. It will provide for solemnisation, eligibility, dissolution and annulment, regulatory requirements and notice of intention in relation to same-sex marriages.<sup>16</sup>

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13 Constitution of Australia 2010, section 122.

14 Zanghellini 2007.

15 Karvelas 2013.

16 Gallagher, quoted in Karvelas 2013.

Attorney-General George Brandis announced that the Commonwealth would appeal in the High Court to have the legislation overturned, but the ACT's Act came into force on 7 December 2013. Over 30 couples immediately married under the new law before, a week later, the High Court ruled in the Commonwealth's favour on the grounds that the ACT law contradicted the federal marriage legislation and was therefore unconstitutional. While this ended the progressive experiment in same-sex marriage, the conflict did much to put the issue on the national agenda and placed pressure on successive national governments to expand access to marriage.

#### *The right to die: euthanasia*

The Northern Territory paved the way for euthanasia laws in 1995, when it became the first Australian jurisdiction to legalise assisted suicide for the terminally ill. The ACT was to follow suit until the Commonwealth passed legislation overriding any move by either territory to pass euthanasia laws in 1997.

In December 2015, Liberal Democrat Senator David Leyonhjelm proposed the *Restoring Territory Rights (Assisted Suicide Legislation) Bill 2015* (Cth), with senators of all parties being given a conscience vote. The purpose of the Bill was to repeal the Commonwealth's prohibition of the territories legislating for assisted suicide. Leyonhjelm is an outspoken supporter of both the rights of the territories to determine their own laws, and the rights of the terminally ill to choose to die. The debate, therefore, was as much about territory rights as it was the rights of the terminally ill.

The Bill went to a second reading in 2016; however, it lapsed at prorogation of the parliament in the lead-up to the election and was not reinstated to the notices until later in 2016. It finally went to its second reading debate in February 2018. After several months of debate, it went to a vote on 14 August 2018. The Bill was expected to pass the Senate with a narrow margin; however, last minute lobbying on the part of those opposed to the Bill changed the votes of enough senators to see it defeated by two votes.

#### Conclusions

The government of the ACT is in a unique position, being the jurisdictional authority over the territory wherein resides the federal government. It faces a number of challenges: administering a territory whose core 'industries' are government and (predominantly publicly funded) education; providing municipal services for a rapidly growing city; providing health, education and public transit services for a growing population; maintaining a healthy and productive relationship with the NSW government and the local government authorities of the 'Australian Capital Region'; and maintaining both its character and integrity while

forging a good working relationship with the federal government, regardless of which political party is in power.

The expanded Assembly should ensure a better coverage of the issues and more equitable representation of the population. It is not known whether the ACT government will act on the second recommendation of the Reference Group on the Size of the Legislative Assembly and expand the Assembly to 35 members in the future.

Given the demographics and political inclination of the ACT's population, it is likely that the ACT government will remain progressive in its policy outlook; however, the issue of territory rights remains unresolved.

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#### About the author

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# New South Wales

David Clune and Rodney Smith

## Key terms/names

Bob Carr, electoral systems, Federation, Henry Parkes, Labor Party, Legislative Assembly, Legislative Council, Liberal Party, minor parties, National Party, Neville Wran, Nicholas Greiner, representative government, Robert Askin, William McKell

New South Wales (NSW) politicians tend to see their state as ‘the premier state’, a claim once emblazoned on NSW vehicle number plates. This contentious claim of pre-eminence rests on two main strands. One strand is cultural centrality: in 1788, the convict colony in NSW initiated the ‘defining moments and symbols’ of the later Australian nation.<sup>1</sup> One version of this idea incorporates stories of colonial politicians successfully pressing for self-government, public works and land development, the great strikes of the 1890s, the founding of the Labor Party (ALP) and, most recently, Sydney’s rise as a global city – ‘the quintessential Australian city, raffish, hedonistic, where old wealth means nothing and new wealth is admired and ostentatiously displayed’.<sup>2</sup> A more critical version of the idea of cultural centrality sees the colony’s founding on ‘Australia Day’ as emblematic of unresolved conflicts and inequalities between the colonisers and Indigenous Australians.

Clune, David, and Rodney Smith (2019). New South Wales. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Hirst 1998, 464.

2 Hirst 1998, 464–5.

The second strand has to do with the size of NSW. Although it is not physically the largest of the six Australian states, NSW has the biggest population, the greatest wealth and the most government activity. In 2018, NSW had 7.95 million people (1.52 million more than Victoria, the next most populous state) and generated 32.7 per cent of Australia's gross domestic product (compared with Victoria's 23.4 per cent). In 2016, NSW became the first quarter of a trillion dollar state economy in Australia. The NSW public sector employed 473,000 workers, almost twice as many as the Commonwealth (241,000) and over 100,000 more than Victoria.

NSW's potential to dominate national politics, as well as the fears this potential has generated in other parts of the country, have been clear since the Federation debates over the Australian Constitution. NSW has played a major role in national politics and is often seen as the state that is politically closest to the national centre. It sends about one-third of the members to the House of Representatives (currently 47 out of 150) and has provided almost half of the country's prime ministers (14 of 30). The state's citizens have identified more closely with the centre and have possessed weaker state loyalties than citizens of other states.<sup>3</sup>

Perhaps for this reason, NSW has rarely been a leader of the states in Commonwealth–state conflicts and has not been particularly innovative among the states in developing new directions and approaches in public policy.<sup>4</sup> As Elaine Thompson comments in her survey of NSW governments, 'Pragmatism seems to be the order of the day rather than bold visions from either the Left or the Right'.<sup>5</sup> Politics within NSW has been dominated by practical problem-solving administration, tinged with anxiety about whether the performance of the state's government and public sector match its claims to premier status.

#### The constitutional framework

Over a period of a century or so after 1788, NSW developed a pattern of representative and responsible government – including strong bicameralism, entrenchment of key constitutional provisions and judicial review – that later helped to form expectations about the Australian Constitution.<sup>6</sup>

Until 1823, all legislative and executive authority in the British colony of NSW, which covered most of the continent of Australia, resided in the governor. The Legislative Council was established in 1823 to give the colonists token involvement in the legislative process. An Executive Council was formed in 1825 to advise the governor in his administrative capacity. Both were nominated bodies consisting of officials and leading colonists. This was the beginning of the process of establishing

3 Holmes and Sharman 1977, 34–59; Smith 2001, 281–2.

4 Deane 2015; Hughes 1984; Nelson 1985a; Twomey 2012.

5 Thompson 2007, 361.

6 Sharman 1989.

representative government in NSW. A Supreme Court with full judicial independence was created in 1823, providing legal protection against government action.<sup>7</sup>

In 1843, the Legislative Council became Australia's first elected legislature, with the majority of its members directly elected, albeit on a restricted franchise. There was growing pressure within the colony for NSW citizens to be given the same rights, including self-government, as existed in Britain. The British government's philosophy was to grant self-government to colonies when they were ready and it agreed to do so in NSW.<sup>8</sup> Under the guidance of the colony's pre-eminent statesman, William Charles Wentworth, the NSW Legislative Council drafted a constitution. After some amendments by the UK government, this draft became the *Constitution Act 1855* (NSW).<sup>9</sup>

In 1856, the NSW parliament assumed the bicameral shape it has today. The Legislative Council became an upper house along the lines of the British House of Lords. Members of the new lower house, the Legislative Assembly, represented geographic districts and were elected on a broad manhood suffrage. Governments and individual government ministers were responsible to the parliament, holding office only while they had the support – 'the confidence' – of the popularly elected Assembly. Public funds could only be expended with parliamentary approval. Finance Bills had to originate in the Assembly. The governor acted on the advice of ministers. The Executive Council, consisting of the ministry and the governor, was the formal mechanism by which Cabinet decisions were given official legitimacy. The legality of government actions could be tested in the courts.

Ministers exercised considerable patronage in appointments at all levels of the growing public service until the 1890s, when the creation of the Public Service Board established a model of independent recruitment, promotion and deployment of staff that continued until the 1980s. After 1988, 'new public management' reforms included the abolition of the Public Service Board, decentralised public service recruitment and greater ministerial control over senior public servants. A system of elected local councils developed from the 1840s; however, the existence, funding and powers of local government bodies have never been entrenched in the NSW constitution and local councils remain subject to the control of the government.<sup>10</sup>

### The Legislative Assembly

The 19th-century Legislative Assembly was not dominated by disciplined political parties. Governments often rose and fell in the house, rather than at elections, as premiers gained and lost support from other members of the Legislative Assembly

7 Clune 2010; Melbourne 1963.

8 Clune 2011; Melbourne 1963 [1934].

9 Melbourne 1963 [1934]; Twomey 2004.

10 Clune and Griffith 2006; Golder 2005; Parker 1978; Twomey 2004.

(MLAs) (see Table 1). The Assembly occupied a more central position in the democratic process than it ever would again. In the early 20th century, Labor and non-Labor parties began to control the Assembly. The house's deliberation and scrutiny functions atrophied as governments gagged debate and rushed legislation through.<sup>11</sup>

The main exception to majority party control of the Assembly occurred after the 1991 election, which left the Liberal–National Coalition government of Nick Greiner in a minority. In return for support from three independent members, Greiner implemented a charter of reform that led to a revival of the Assembly's deliberative and scrutiny processes.<sup>12</sup>

With the return to majority government at the 1995 election, the Assembly reverted to government dominance, a situation that remains today. The Assembly does, however, exercise partisan scrutiny of the executive through attempts by the opposition to score points, for example, at question time.<sup>13</sup>

#### The Legislative Council

After 1856, the appointed Legislative Council was intended to be a house of review and a conservative check on the popularly elected Assembly. Until 1934, members of the Legislative Council (MLCs) were appointed by the governor. From 1934 until 1978, all MLCs were elected by members of both houses of parliament.<sup>14</sup>

The advent of Labor governments from 1910 saw an increase in conflict between the lower and upper houses, as the Council treated Labor's legislative programs more harshly than those of non-ALP administrations. Between the 1920s and the 1960s, Labor governments made several unsuccessful attempts to abolish the Council.<sup>15</sup> In the 1970s, Labor Premier Neville Wran was determined to reform a Council he could not abolish. After much negotiation, the opposition agreed to a reform proposal that was then overwhelmingly passed by a referendum in 1978. It provided for a house of 45 members elected by proportional representation on a statewide basis. One-third retired at each general election.<sup>16</sup>

Further change came under Liberal Premier Nick Greiner. In 1991, the Council was reduced to 42 members and the term of office reduced from 12 to eight years, with half the MLCs ending their terms at each election. The quota required for election was consequently lowered, increasing the opportunities for minor party and independent representation. No government has controlled the upper house

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11 Clune and Griffith 2006.

12 Clune and Griffith 2006; Smith 1995.

13 Clune and Griffith 2006; Smith 2012b.

14 Clune and Griffith 2006; Turner 1969.

15 Clune and Griffith 2006; Turner 1969; Twomey 2004.

16 Clune 2017.

since 1988, during which time the Council has largely exercised parliament's roles of reviewing legislation, scrutinising the executive and holding it accountable.<sup>17</sup>

#### The electoral framework

The questions of who should vote and be eligible to stand for the NSW parliament were largely settled by the early 20th century. In 1858, all males aged 21 and over who were British subjects resident in the colony for three years and not in receipt of charity were enfranchised. A requirement, abolished in 1893, that a voter had to reside in his electorate for six months disqualified many potential voters, including large numbers of itinerant workers. Women had to wait until 1902 to gain the vote, until 1918 to be able to stand for the Legislative Assembly, and until 1926 to be eligible for the Legislative Council. Indigenous people have always had the same formal voting rights as others in NSW, although the residential and charity disqualifications led to much Indigenous disenfranchisement. Compulsory enrolment was introduced in 1921 and compulsory voting in 1928. The voting age was reduced to 18 years in 1973.<sup>18</sup>

Methods of electing representatives have been subject to greater variation, as governments have sought to gain electoral advantage or reverse an advantage enjoyed by their predecessors. Until 1910, NSW had used plurality ('first-past-the-post') ballots in single-member districts to elect the Assembly. Rapid experimentation took place from 1910 to 1928, with second round 'run-off' elections, proportional preferential voting in multi-member electorates, optional preferential voting (OPV) in single-member electorates and, finally, full preferential voting in single-member electorates. The latter system was retained until 1979, when the Wran Labor government provided for OPV in single-member districts. This method has continued since, allowing voters to allocate preferences to as many or as few candidates as they wish.<sup>19</sup>

Since 1978, Legislative Council elections have used OPV, with 'above-the-line' or 'group ticket' voting introduced from 1988 to simplify the process. The rules about upper house preferences have been altered over time to reflect changes in the size of the Council and to prevent minor parties with little support being elected.<sup>20</sup>

The boundaries of individual Assembly seats have long been drawn independently of governments. Legislation in 1893 instituted an Electoral Commission, consisting of public servants, to draw up the electoral boundaries. It also created a regular process to review them. In 1928, the position of electoral commissioner was established to head the Electoral Office. The electoral commissioner replaced

17 Clune and Griffith 2006; Smith 2006; Smith 2012b.

18 Clifford, Green and Clune 2006; Parker 1978; Twomey 2004.

19 Clifford, Green and Clune 2006; Smith 2003.

20 Green 2012.

parliament as the final consent authority for redistributions in 1949. Currently, the commissioners for a redistribution are a judge of the Supreme Court (past or current), the electoral commissioner and the surveyor-general. Redistributions are automatically triggered after every second general election, if more than a quarter of electoral districts do not have an equal number of voters or if there is a change in the number of members of the Legislative Assembly.<sup>21</sup>

As in most other states, for many years non-Labor and Labor governments alike used zonal systems to attempt to maximise their chances of election by manipulating the numbers of votes required to elect a representative from Sydney, regional areas around Sydney and rural areas. Reforms by the Wran ALP government in 1979 abolished the long-term over-representation of rural voters in the Assembly. In 1991, the government's right to call an early election was replaced by a fixed four-year electoral term, with elections held every four years on the fourth Saturday in March. These changes were entrenched in the NSW constitution, so they cannot be repealed without a referendum.<sup>22</sup>

Until the 1980s, election candidates raised their own campaign funds and were not required to reveal who had provided them with funding. In 1981, NSW passed the first laws in Australia providing for public funding of elections and public disclosure of political donations. Within a few years, public funding of candidates winning 4 per cent or more of the vote proved relatively uncontroversial.<sup>23</sup> By contrast, public disclosure of the sources and sizes of election donations has become an increasingly contentious and complex issue over the past decade. The controversies began with claims that some donors and candidates had used loopholes in the rules to disguise their funding arrangements, or had simply broken the rules without detection or punishment. Recent efforts by a series of NSW governments to ban contributions from particular types of donors, including property developers, to cap contributions from other donors and to restrict the amount that candidates can spend on campaigns have been highly contentious and subject to legal challenges. How much influence election donations buy and how such donations should be regulated are ongoing questions in NSW.<sup>24</sup>

### The political contest

The political contest in NSW since the advent of representative and responsible government in 1856 can be divided into five broad eras: faction politics in the early colonial period; a late colonial period dominated by Free Traders and Protectionists; an unstable contest between Labor and anti-Labor parties from the

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21 Clifford, Green and Clune 2006; Parker 1978; Smith 2003.

22 Twomey 2004.

23 Turner 1985.

24 Gauja 2012.

1900s to the 1940s; a Labor versus Coalition contest from the 1940s to the 1980s, dominated by Labor; and a period from the late 1980s when Labor versus Coalition competition has been modified by minor party and independent challengers.

#### *The colonial period*

At the first popular elections in 1856, the political contest was between liberals and conservatives. In the ensuing decades, the conservatives disappeared as a political force. Almost all politicians labelled themselves 'liberal', which became a diffuse, diluted creed. Competition for government was between loose factions gathered around dominant political leaders, such as Charles Cowper, John Robertson, James Martin, Alexander Stuart and the greatest of them all, Henry Parkes, who still holds the record as NSW's longest-serving premier, completing a cumulative term of 11 years and nine months (see Table 1).<sup>25</sup>

A two-party system emerged in the 1880s between Free Traders and Protectionists. As a major trading centre, Sydney was a Free Trade stronghold. Protection was supported by manufacturers and farmers who wanted tariffs to safeguard them from imports from overseas and from other colonies. Federation made the fiscal issue irrelevant in NSW, as the Australian Constitution entrenched free trade between the new states and gave power over tariffs to the Commonwealth government. The Free Traders became the Liberal Party and the Protectionists became the Progressives.<sup>26</sup>

#### *The Labor Party changes the contest*

A stronger challenge to the colonial pattern of political competition came from the formation of the Labor Party. In January 1890, the NSW Trades and Labor Council decided to elect representatives to parliament to protect and further its interests. The initial platform was a practical, down-to-earth document, mainly concerned with matters such as industrial, electoral, land, educational and social reform. The new party drew support not only from the urban working class but also from small farmers, shopkeepers and intellectuals. It had socialist elements but these were never predominant. From its inception, Labor was committed to the parliamentary road to reform.<sup>27</sup>

Labor did well in the 1891 poll, winning 29 per cent of the primary vote. As a third party holding the balance of power, Labor's approach was to support the party that offered to advance its agenda the most.

Labor constructed its organisation on the innovative basis of grassroots control. In practice, these democratic ideals were often subverted by dominant factions that ruled with an iron fist. The early electoral successes of the Labor Party pushed non-Labor forces together into a single party, the Liberal Party, in the 1900s, creating

25 Loveday and Martin 1966.

26 Loveday, Martin and Parker 1977.

27 Nairn 1973.



**Table 1 Elections, premiers, Assembly support and government status in the colonial period**

| <b>Election*</b> | <b>Premier/s<br/>between<br/>elections**</b> | <b>Main support in Assembly</b>                  | <b>Government<br/>status</b> |
|------------------|--|--|------------------------------|
| 1856             | Stuart Donaldson                             | Independents                                     | Minority                     |
|                  | Charles Cowper                               | Cowper faction                                   | Minority                     |
|                  | Henry Parker                                 | Independents                                     | Minority                     |
|                  | Charles Cowper                               | Cowper–Robertson faction                         | Minority                     |
| 1858             | Charles Cowper                               | Cowper–Robertson faction                         | Minority                     |
| 1859             | Charles Cowper                               | Cowper–Robertson faction                         | Minority                     |
|                  | William Forster                              | Independents                                     | Minority                     |
|                  | John Robertson                               | Cowper–Robertson faction                         | Minority                     |
| 1860             | John Robertson                               | Cowper–Robertson faction                         | Minority                     |
|                  | Charles Cowper                               | Cowper–Robertson faction                         | Minority                     |
|                  | James Martin                                 | Martin and Forster factional coalition           | Minority                     |
| 1864             | James Martin                                 | Martin and Forster factional coalition           | Minority                     |
|                  | Charles Cowper                               | Cowper–Robertson faction                         | Minority                     |
|                  | James Martin                                 | Parkes and Martin factional coalition            | Minority                     |
|                  | John Robertson                               | Cowper–Robertson and Forster factional coalition | Minority                     |
| 1869             | John Robertson                               | Cowper–Robertson and Forster factional coalition | Minority                     |
|                  | Charles Cowper                               | Cowper–Robertson and Forster factional coalition | Minority                     |
|                  | James Martin                                 | Martin and Robertson factional coalition         | Minority                     |
| 1872             | Henry Parkes                                 | Parkes faction                                   | Minority                     |
| 1874             | John Robertson                               | Robertson faction                                | Minority                     |
|                  | Henry Parkes                                 | Parkes faction                                   | Minority                     |

| <b>Election*</b> | <b>Premier/s<br/>between<br/>elections**</b> | <b>Main support in Assembly</b>          | <b>Government<br/>status</b> |
|------------------|--|--|------------------------------|
|                  | John Robertson                               | Robertson faction                        | Minority                     |
| 1877             | John Robertson                               | Robertson faction                        | Minority                     |
|                  | James Farnell                                | Independents                             | Minority                     |
|                  | Henry Parkes                                 | Parkes and Robertson factional coalition | Majority                     |
| 1880             | Henry Parkes                                 | Parkes and Robertson factional coalition | Majority                     |
| 1882             | Alexander Stuart                             | Stuart–Dibbs–Jennings faction            | Minority                     |
|                  | George Dibbs                                 | Dibbs–Jennings faction                   | Minority                     |
| 1885             | John Robertson                               | Robertson faction                        | Minority                     |
|                  | Patrick Jennings                             | Dibbs–Jennings faction                   | Minority                     |
|                  | Henry Parkes                                 | Free Trade                               | Minority                     |
| 1887             | Henry Parkes                                 | Free Trade                               | Minority                     |
|                  | George Dibbs                                 | Protectionist                            | Minority                     |
| 1889             | Henry Parkes                                 | Free Trade                               | Minority                     |
| 1891             | Henry Parkes                                 | Free Trade                               | Minority                     |
|                  | George Dibbs                                 | Protectionist                            | Minority                     |
| 1894             | George Reid                                  | Free Trade                               | Minority                     |
| 1895             | George Reid                                  | Free Trade                               | Minority                     |
| 1898             | George Reid                                  | Free Trade                               | Minority                     |
|                  | William Lyne                                 | Protectionist                            | Minority                     |
|                  | John See                                     | Progressive                              | Minority                     |

\*Year of first day of voting if voting occurred on multiple days.

\*\*The first premier listed next to each election date is the first leader who secured office as a result of the election. Premiers who continued to govern for short periods after losing an election until a successor was sworn in are not included.

the Labor versus Liberal dynamic of party politics that has dominated NSW politics ever since.<sup>28</sup>

In 1910, Labor formed its first NSW government; it was re-elected in 1913. This level of success proved impossible to repeat throughout the next few decades, with Labor only governing for two-fifths of the period from 1910 to 1941 (see Table 2). Although Labor governments had some important achievements to their credit in this period, they were repeatedly brought undone by internal divisions.

The party split when Labor Premier W.A. Holman defied Labor policy and supported conscription in the First World War. Holman and most of his Cabinet left Labor in late 1916 and combined with their former enemies to form the Nationalists. The conscription split reinforced the belief within the unions and the party machine that Labor politicians could not be trusted and needed to be kept under strict control. Jack Lang, who became Labor leader in 1923, plunged the party into an internal war; his inflammatory style as premier led NSW close to major civil disorder. In 1932, Governor Sir Philip Game used his reserve powers to dismiss Lang. At the ensuing election, Labor suffered a crushing defeat and remained in the wilderness for much of the next decade.<sup>29</sup>

In the period after 1910, the major non-Labor party went through two realignments, absorbing the Labor conscription defectors to become the National Association of NSW (the Nationalists) in 1917 and then reforming as the United Australia Party (UAP) in 1932. Although electorally more successful than not, the Nationalists and UAP were both organisationally weak parties, heavily reliant on strong parliamentary leaders. Disastrous election losses in the early 1940s led to the UAP's dissolution.<sup>30</sup>

Apart from facing Labor's challenge, the Nationalists had to deal with farmers, graziers and rural business people who were angered by what they saw as the Nationalists' neglect of 'the bush'. Disaffected conservative rural politicians ran under the Progressive banner at the 1920 election, winning 11 seats in rural NSW. A split among the Progressives over how closely to support George Fuller's Nationalists led to the formation of the NSW Country Party in 1922. A workable relationship between the conservative parties of town and country was not resolved until after the 1927 election, when the Country Party won 13 seats and negotiated five ministries, including the deputy premiership, as junior partner in a Nationalist–Country Coalition government. This established the long-term pattern of Coalition relations whenever the major non-Labor parties governed in NSW.<sup>31</sup>

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28 Hagan and Turner 1991; Nairn 1973.

29 Hagan and Turner 1991; Nairn 1986.

30 Hancock 2007; Watson 1979.

31 Aitkin 1972; Davey 2006.

**Table 2 Elections, premiers, Assembly support and government status from Federation to the Second World War**

| <b>Election</b> | <b>Premier/s<br/>between<br/>elections*</b> | <b>Main support in Assembly</b>    | <b>Government status</b> |
|-----------------|---|------------------------------------|--------------------------|
| 1901            | John See                                    | Progressive                        | Minority                 |
|                 | Thomas Waddell                              | Progressive                        | Minority                 |
| 1904            | Joseph Carruthers                           | Liberal                            | Minority                 |
| 1907            | Joseph Carruthers                           | Liberal                            | Minority                 |
|                 | Charles Wade                                | Liberal                            | Minority                 |
| 1910            | James McGowen                               | Labor                              | Majority                 |
|                 | William Holman                              | Labor                              | Majority                 |
| 1913            | William Holman                              | Labor then Nationalist             | Majority                 |
| 1916            | William Holman                              | Nationalist                        | Majority                 |
| 1920            | John Storey                                 | Labor                              | Minority                 |
|                 | James Dooley                                | Labor                              | Minority                 |
|                 | George Fuller                               | Nationalist–Progressive Coalition  | Minority                 |
|                 | James Dooley                                | Labor                              | Minority                 |
| 1922            | George Fuller                               | Nationalist–Progressive Coalition  | Majority                 |
| 1925            | John Lang                                   | Labor                              | Majority                 |
| 1927            | Thomas Bavin                                | Nationalist–Country Coalition      | Majority                 |
| 1930            | John Lang                                   | Labor                              | Majority                 |
|                 | Bertram Stevens                             | United Australia–Country Coalition | Minority                 |
| 1932            | Bertram Stevens                             | United Australia–Country Coalition | Majority                 |
| 1935            | Bertram Stevens                             | United Australia–Country Coalition | Majority                 |

| <b>Election</b> | <b>Premier/s<br/>between<br/>elections*</b> | <b>Main support in Assembly</b>    | <b>Government status</b> |
|-----------------|---|------------------------------------|--------------------------|
| 1938            | Bertram Stevens                             | United Australia–Country Coalition | Majority                 |
|                 | Alexander Mair                              | United Australia–Country Coalition | Majority                 |

\*The first premier listed next to each election date is the first leader who secured office as a result of the election. Premiers who continued to govern for short periods after losing an election until a successor was sworn in are not included.

#### *Postwar Labor dominance*

William McKell, who replaced Lang as Labor leader in 1939, won a landslide victory in 1941. Labor would dominate NSW politics over the following eight decades, governing for more than two-thirds of that time, over three lengthy periods: 1941 to 1965, 1976 to 1988 and 1995 to 2011 (see Table 3).

McKell and many of his colleagues had been scarred by the Lang years and were determined to create a new style of Labor government. McKell's emphasis was on internal unity, political moderation and efficient administration. During his two terms, he implemented significant social, industrial and environmental reforms and established a model of negotiated compromise between the ALP machine and Labor governments that continued under his successors. This model, along with political skill and continuous prosperity in the long postwar boom, helped Labor to retain office until 1965.<sup>32</sup>

Labor won the 1976 election under Neville Wran, who was premier for the next decade. As well as maintaining the McKell model, he took account of the emergence of new policy issues concerning quality of life and equality of opportunity. Wran was re-elected with record majorities in 1978 and 1981, and less easily in 1984.<sup>33</sup>

Bob Carr led Labor back to office with a narrow victory in 1995, before winning easily in 1999 and 2003. Economic efficiency and environmental sustainability were the key elements of the Carr model. He became the longest continuously serving NSW premier, remaining in office for 10 years and four months. Carr's premiership was followed by a period of instability and rapid leadership change. The ALP's organisational wing clashed with the government over electricity privatisation. The influence of back-room figures such as Eddie Obeid, who was subsequently imprisoned for corruption, was a major issue. At the 2011 election, Labor suffered its worst defeat since 1904, winning just 36 per cent of the two-party preferred vote.<sup>34</sup>

32 Clune 1988; Cunneen 2000.

33 Bramston 2006; Chaples, Nelson and Turner 1985; Steketee and Cockburn 1986.

34 Clune 2005; Clune and Smith 2012; Dodkin 2003; West and Morris 2003.

**Table 3 Elections, premiers, Assembly support and government status since 1941**

| <b>Election</b> | <b>Premier/s<br/>between<br/>elections*</b> | <b>Main support in Assembly</b> | <b>Government status</b> |
|-----------------|---|---------------------------------|--------------------------|
| 1941            | William McKell                              | Labor                           | Majority                 |
| 1944            | William McKell                              | Labor                           | Majority                 |
|                 | James McGirr                                | Labor                           | Majority                 |
| 1947            | James McGirr                                | Labor                           | Majority                 |
| 1950            | James McGirr                                | Labor                           | Minority                 |
|                 | John Cahill                                 | Labor                           | Minority                 |
| 1953            | John Cahill                                 | Labor                           | Majority                 |
| 1956            | John Cahill                                 | Labor                           | Majority                 |
| 1959            | John Cahill                                 | Labor                           | Majority                 |
|                 | Robert Heffron                              | Labor                           | Majority                 |
| 1962            | Robert Heffron                              | Labor                           | Majority                 |
|                 | John Renshaw                                | Labor                           | Majority                 |
| 1965            | Robert Askin                                | Liberal–Country Coalition       | Majority                 |
| 1968            | Robert Askin                                | Liberal–Country Coalition       | Majority                 |
| 1971            | Robert Askin                                | Liberal–Country Coalition       | Majority                 |
| 1973            | Robert Askin                                | Liberal–Country Coalition       | Majority                 |
|                 | Thomas Lewis                                | Liberal–Country Coalition       | Majority                 |
|                 | Eric Willis                                 | Liberal–Country Coalition       | Majority                 |
| 1976            | Neville Wran                                | Labor                           | Majority                 |
| 1978            | Neville Wran                                | Labor                           | Majority                 |

| <b>Election</b> | <b>Premier/s<br/>between<br/>elections*</b> | <b>Main support in Assembly</b> | <b>Government status</b> |
|-----------------|---|---------------------------------|--------------------------|
| 1981            | Neville Wran                                | Labor                           | Majority                 |
| 1984            | Neville Wran                                | Labor                           | Majority                 |
|                 | Barrie Unsworth                             | Labor                           | Majority                 |
| 1988            | Nicholas Greiner                            | Liberal–National Coalition      | Majority                 |
| 1991            | Nicholas Greiner                            | Liberal–National Coalition      | Minority                 |
|                 | John Fahey                                  | Liberal–National Coalition      | Minority                 |
| 1995            | Robert Carr                                 | Labor                           | Majority                 |
| 1999            | Robert Carr                                 | Labor                           | Majority                 |
| 2003            | Robert Carr                                 | Labor                           | Majority                 |
|                 | Morris Iemma                                | Labor                           | Majority                 |
| 2007            | Morris Iemma                                | Labor                           | Majority                 |
|                 | Nathan Rees                                 | Labor                           | Majority                 |
|                 | Kristina Keneally                           | Labor                           | Majority                 |
|                 |   | Labor                           | Majority                 |
| 2011            | Barry O’Farrell                             | Liberal–National Coalition      | Majority                 |
|                 | Michael Baird                               | Liberal–National Coalition      | Majority                 |
| 2015            | Michael Baird                               | Liberal–National Coalition      | Majority                 |
|                 | Gladys Berejiklian                          | Liberal–National Coalition      | Majority                 |

\*The first premier listed next to each election date is the first leader who secured office as a result of the election. Premiers who continued to govern for short periods after losing an election until a successor was sworn in are not included.

Why was NSW Labor so dominant after 1941? Part of the answer lies in the sheer extent of the NSW UAP’s collapse in the early 1940s and the difficulty of establishing a competitive Liberal organisation. The NSW division of the Liberal Party, formed in 1945, had a similar structure to the UAP, except that it controlled its own finances, rather than relying on shadowy business interests. Liberal head

office under General Secretary John Carrick developed a more co-ordinated statewide organisational structure than the UAP had achieved or even desired.<sup>35</sup>

The Liberal Party suffered from several long-term problems. Its leaders were no match for able ALP premiers like Joe Cahill. The parliamentary party was internally divided and was often in conflict with the machine. Relations with the Country Party were poisonous. Like others in the NSW Liberal Party, Carrick's main emphasis was the national contest, where the party quickly showed it could defeat Labor. The NSW Party finally found a successful leader in the long-serving and popular Robert Askin (deputy leader 1954–59; opposition leader 1959–65; premier 1965–75). His government was initially innovative, establishing a Law Reform Commission, Ombudsman and Consumer Claims Tribunal. However, it became noticeably lethargic in its final years.

Subsequently, the Liberals have struggled to find leaders who have been able to dominate NSW politics for long periods in a similar way to Labor Premiers Wran and Carr. Recurrent factional conflicts within the party since the 1980s have added to these difficulties.<sup>36</sup> These problems have dogged the Liberals in office, although relations between the Coalition partners have been stable.

Since their landslide election win in 2011, the Liberals have had three premiers, with the transitions being smoothly managed. Barry O'Farrell (2011–14), after a capable and reformist beginning, was forced to resign over a minor scandal involving a gift. His successor, Mike Baird (2014–17), for a time the most popular premier in Australia, retired from politics after less than three years because of a backlash over decisions to ban greyhound racing and amalgamate local councils. His replacement, Gladys Berejiklian (2017–) halted the government's sliding fortunes in 2019 and became the first woman to lead a party to election victory in NSW.

The previous period of Liberal-led government (1988–95) saw the premiership of Nick Greiner (1988–92) cut short following an ill-advised government appointment.<sup>37</sup> While Liberal premiers have certainly helped to reshape NSW politics and public policy – Greiner was the driving force behind the sweeping public sector microeconomic reforms that later came to dominate Australian approaches to government<sup>38</sup> – they have generally had less impact than their Labor counterparts.

Throughout the postwar period, the 'country' partner in the NSW Coalition has proved remarkably resilient in the face of a declining rural economy, long-term population drift to urban centres and periodic challenges from independents, minor parties and even its Liberal ally. This resilience has been due to a mix of adaptation – the most obvious sign of which was a name change from the Country

35 Hancock 2007; Starr 2012.

36 Nelson 1985b; Smith 2012a; West 1965.

37 Hancock 2013.

38 Laffin and Painter 1995.



Party to the National Party in 1982 – and continued assertion of the need for a distinctively rural voice in the parliament and in government.<sup>39</sup>

The postwar vote share of Country/National Party candidates in Assembly elections has remained stable, and the party's share of Assembly seats has fluctuated within a narrow band (12.9 to 19.4 per cent). Its lowest Assembly seat return occurred at the 2003 election but the party bounced back to record its highest postwar share of seats at the 2011 election.<sup>40</sup>

The ability of the Nationals to fend off demographic and political challenges has meant that coalition agreements have persisted, with Nationals continuing to hold the deputy premiership and other key ministries in Coalition governments. The Queensland option of merging the Liberal and National parties has not been seriously entertained in recent decades.<sup>41</sup>

#### Minor party and independent challenges since the 1980s

The electoral support of Labor and the Coalition parties has softened since the 1980s. As noted earlier, the Coalition was forced into minority government between 1991 and 1995 with the support of several independents. More recently, independents, the Greens and the Shooters, Fishers and Farmers Party (SFFP) have all won Assembly seats.

Single-member districts make winning Assembly seats difficult for minor parties. The proportional representation system used for Legislative Council elections provides minor parties with more encouragement, since they only need to win a relatively small vote across the state to win a seat. Since the democratisation of the Council, 10 minor parties have won Council seats and minor parties now command one-quarter of the vote at every Council election (see Table 4). The longest standing of these parties is the socially conservative Christian Democratic Party (CDP), whose leader, Fred Nile, first won a seat in 1981, when the party was named Call to Australia (CTA). CTA was frequently opposed in the Council by the socially and environmentally progressive Australian Democrats, with both parties critical to the passage of government Bills at different times between 1988 and 1995.<sup>42</sup>

After 1995, other minor parties became important players in the Council at various times. Of the minor parties currently represented in the Council, the Greens have the strongest organisation. The CDP relies on support networks within the churches, the SSFP mobilises through gun clubs and hunting associations, and the Animal Justice Party has strong connections to animal rights groups. Pauline

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39 Aitkin 1972; Davey 2006.

40 Green 2012; Smith 2003.

41 Davey 2006.

42 Smith 2006.

**Table 4 NSW Legislative Council elections: vote and seat shares**

| Election | First preference votes (%) |                  |       | Seats won (n) |                  |                                      |
|----------|----------------------------|------------------|-------|---------------|------------------|--------------------------------------|
|          | Labor                      | Liberal–National | Other | Labor         | Liberal–National | Other                                |
| 1978     | 54.9                       | 36.3             | 8.2   | 9             | 6                | 0                                    |
| 1981     | 51.8                       | 33.8             | 14.4  | 8             | 5                | 2 (CTA; AD)                          |
| 1984     | 46.9                       | 42.6             | 10.5  | 7             | 7                | 1 (CTA)                              |
| 1988     | 37.5                       | 46.2             | 16.3  | 6             | 7                | 2 (CTA; AD)                          |
| 1991     | 37.3                       | 45.3             | 17.4  | 6             | 7                | 2 (CTA; AD)                          |
| 1995     | 35.3                       | 38.5             | 26.2  | 8             | 8                | 5 (CTA; AD; Gns; SP; BFC)            |
| 1999     | 37.3                       | 27.4             | 35.3  | 8             | 6                | 7 (CDP; AD; Gns; PHON; RLS; UP; ORP) |
| 2003     | 43.5                       | 33.3             | 23.2  | 10            | 7                | 4 (2 Gns; CDP; SP)                   |
| 2007     | 39.1                       | 34.2             | 26.7  | 9             | 8                | 4 (2 Gns; CDP; SP)                   |
| 2011     | 23.8                       | 47.7             | 28.5  | 5             | 11               | 5 (3 Gns; CDP; SP)                   |
| 2015     | 31.1                       | 42.6             | 26.3  | 7             | 9                | 5 (2 Gns; CDP; SP; AJP)              |
| 2019     | 26.7                       | 34.8             | 38.5  | 7             | 8                | 6 (2 Gns; 2 PHON; SP; AJP)           |

Source: Australian Politics and Elections Database, University of Western Australia.  
<http://elections.uwa.edu.au/>.

CTA = Call to Australia (later renamed Christian Democratic Party [CDP]); AD = Australian Democrats; Gns = Greens NSW; SP = Shooters Party (later renamed Shooters and Fishers Party and then Shooters, Fishers and Farmers Party); BFC = A Better Future for Our Children; CDP = Christian Democratic Party; PHON = Pauline Hanson's One Nation; RLS = Reform the Legal System; UP = Unity Party; ORP = Outdoor Recreation Party; AJP = Animal Justice Party.

Hanson's One Nation Party (PHON) won two Council seats at the 2019 election with former federal Labor leader Mark Latham as its lead candidate.

The continued success of minor parties has changed the dynamic of NSW electoral and parliamentary politics. The Labor Party now competes with the Greens for left of centre votes, while the Coalition parties face electoral challenges from right of centre minor parties such as the SFFP and PHON. Governments still initiate almost all legislation that is passed by the NSW parliament; however, they often need to take the views of minor parties into account to prevent contentious Bills being defeated by a combination of opposition and minor party MLCs.<sup>43</sup>

## Conclusions

NSW has a well-established set of formal political institutions that have adapted to changing pressures over two centuries. This adaptability is perhaps best illustrated by the development of the Legislative Council from an appointed to an elected house of review. The institutional framework of NSW politics currently appears to be relatively settled; however, the major political parties face challenges to adapt their traditional outlooks and operations to new circumstances. Recent revelations by the Independent Commission Against Corruption of political corruption involving both the Labor and Liberal parties point to integrity and transparency as key concerns for future governance in NSW. NSW Labor is yet to overcome the legacies of the post-Carr era, while the Coalition government has staked its reputation on a massive infrastructure spending program. This program is intended to address Sydney's growth and the economic development of regional NSW. Even if the government succeeds in completing the promised roads, rail lines, stadiums and so on, it may face a legacy of unresolved issues, such as population growth, overdevelopment, environmental damage, the merits of private versus public provision of services, lack of consultation and disruption to local communities. A key question is whether the old laws of NSW politics – when the 'pork barrel' ruled – still apply or whether NSW is moving into an age in which tolerance, sustainability, quality of life and access to social capital are more central to citizens' perceptions of what it means to live in the 'premier state'.

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<sup>43</sup> Smith 2012b.

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# Northern Territory

Robyn Smith

## Key terms/names

Aboriginal land councils, *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA), administrator, *Commonwealth of Australia Constitution Act 1900* (UK) (the Constitution), *Euthanasia Laws Act 1997* (Cth), *Northern Territory Acceptance Act 1910* (Cth), *Northern Territory (Administration) Act 1910* (Cth), *Northern Territory National Emergency Response Act 2007* (Cth), *Northern Territory Representation Act 1888* (SA), *Northern Territory Representation Act 1922* (Cth), *Northern Territory (Self-Government) Act 1978* (Cth), *Northern Territory Surrender Act 1907* (SA), *Rights of the Terminally Ill Act 1995* (NT) (ROTI), unicameral

The Northern Territory (NT) comprises one-fifth of Australia's land mass and has a population of 244,300,<sup>1</sup> of which one-third is Aboriginal. Representative government is a relatively recent phenomenon for residents of the NT, who endured government from afar until the 1970s and, to a certain extent, still do.

Like other parts of the country lying north of the Tropic of Capricorn, it has fleeting moments at the top of the national political agenda – most notably at times of disaster – before resuming its status as a somewhat awkward remote irritant.

The NT Legislative Assembly is a unicameral parliament, established after the *Northern Territory (Self-Government) Act 1978* (Cth) (Self-Government Act) of the

Smith, Robyn (2019). Northern Territory. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

<sup>1</sup> ABS 2016. Note that the population has been in decline since then as mining projects have been completed. Further, there is a significant 'fly-in, fly-out' (transient) workforce on mining projects.

federal parliament conferred limited self-governing powers on the NT. The Assembly is comprised of 25 representatives of single-member electoral divisions; each division has an average 5,140 electors.<sup>2</sup>

## History

The NT was part of the colony of New South Wales (NSW) from 1849 until 1863.<sup>3</sup> It then became part of South Australia (SA) until 1911,<sup>4</sup> making it part of SA at Federation in 1901.

Under the *Northern Territory Representation Act 1888* (SA), the NT was a single electoral district that elected two members to the SA House of Assembly and, proportionately, membership of the Legislative Council. From 1901 until 1911, NT residents, who had been extended full adult suffrage,<sup>5</sup> voted for the six senators representing SA and, from 1903, the NT was included in SA's federal division of Grey.<sup>6</sup>

In 1911, the NT was ceded by SA to the Australian government. Under this regime, the NT had no representation at all in the federal parliament and no state-like legislature. It is arguable that this disenfranchisement was the result of the White Australia policy, enacted in 1901, because the non-Indigenous NT population was overwhelmingly dominated by Asians,<sup>7</sup> which would inevitably have resulted in non-white representation in the federal parliament.<sup>8</sup>

In preparation for the change to Commonwealth control, the federal parliament enacted the *Northern Territory (Administration) Act 1910* (Cth), which provided for government in the NT headed by an administrator appointed by the governor-general.<sup>9</sup>

After bitter objections from NT residents, a single member of the House of Representatives was granted by the *Northern Territory Representation Act 1922* (Cth). That representative had no vote. In 1936, the NT representative was granted a vote, but *only* on ordinances setting down laws for the NT.

## Legislative Council

A 13-person Legislative Council was established in 1947. The Commonwealth retained absolute control by providing for the election of six members and the

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2 Redistribution Committee 2019.

3 State Archives of New South Wales n.d.

4 Jaensch and Smith 2015, xi.

5 This included Aboriginal people – possibly as an administrative oversight – although they were unaware of their right and not at all familiar with the electoral process.

6 National Archives of Australia n.d.

7 Principally Chinese, engaged in mining and commerce, but also Japanese, engaged in the pearling industry, and Malays, Filipinos and Indonesians, engaged in fishing enterprises.

8 See, for example, Egan 2017, 27, 43.

9 Jaensch and Smith 2015, xi.



appointment of seven members. The Council had the power to make laws for the 'peace, order and good government of the Territory subject to assent by the Administrator and/or the pleasure of the Governor-General'.<sup>10</sup> The Council met for the first time in 1948.

Disaffection with the lack of autonomy remained, and, in April 1958, all six elected members of the Council resigned in protest. All were re-elected, five unopposed, in June 1958.<sup>11</sup> In the same year, the NT's member of the House of Representatives was allowed to vote 'on any proposed law or matter relating solely or principally to the Territory'.<sup>12</sup>

The following year, the composition of the Legislative Council was changed to eight elected members, six official members and three non-official members. Commonwealth control was retained by appointing the administrator to be the president of the Council with two votes, a deliberative and a casting vote.<sup>13</sup> At the same time, an Administrator's Council was created as an advisory body and comprised two official (appointed) members and three elected members.

In 1965, the administrator was replaced as a member and president of the Legislative Council. The president was, for the first time, an elected member of the Council. In 1968, composition was changed again: non-official appointed members were replaced by elected members, resulting in 11 elected members and six appointed members. For the first time, the Legislative Council was under NT control. In that year, the NT's member of the House of Representatives was granted full voting rights.

#### *Legislative Assembly*

On 20 November 1974, the first fully elected Legislative Assembly, comprising 19 members, convened. This resulted in the NT's first executive. In 1977, the federal parliament enacted the Self-Government Act. On 1 July 1978, the NT became self-governing and the NT government was given authority and responsibility for the finances of the territory. In 1982, membership of the Legislative Assembly was increased to 25.

#### *Limitations of self-government*

When the Commonwealth ceded control of the NT to the Legislative Assembly, certain state-like powers were not transferred. These were: Aboriginal land rights, industrial relations, national parks and uranium mining. Those limitations remain.

10 Jaensch and Smith 2015, xii.

11 Jaensch and Smith 2015, xii.

12 Jaensch and Smith 2015, xii.

13 This anomaly was carried over at the time of self-government. The speaker of the Legislative Assembly, unlike speakers of other parliaments, has two votes: a deliberative and, in the event of a tied vote, a casting one.

This situation, however, is fluid. The NT's *Rights of the Terminally Ill Act 1995* (NT) (ROTI), passed by the Legislative Assembly in May 1995, was overturned by the federal parliament's *Euthanasia Laws Act 1997* (Cth),<sup>14</sup> which amended the Self-Government Act by inserting section 51A to prohibit laws in relation to voluntary euthanasia. ROTI has never been repealed by the Legislative Assembly and remains an impotent instrument in the statutes of the NT. Statehood was first mooted for the NT during the 1975 federal election, but this amendment to the Self-Government Act resulted in a grievance to the Australian parliament and an invigorated debate about the NT's inequality within the federation.

Similarly, the federal parliament's *Northern Territory National Emergency Response Act 2007* (Cth) (the Intervention) allowed for a federal 'invasion' of the NT and the suspension of some NT and federal laws. The \$587 million emergency response followed publicity arising from the *Little children are sacred* report, commissioned by Chief Minister Clare Martin in 2006, and was an initiative of the Howard government in the lead-up to the 2007 election, at which it was defeated. The Intervention suspended federal laws in relation to discrimination, social security, taxation and Aboriginal land, and NT laws in relation to alcohol and pornography, removed customary law and cultural practice considerations from bail applications and sentencing in criminal trials, and introduced mandatory health checks for children. Directed at Aboriginal communities, the haste with which it was introduced allowed 'little time for consultation with Indigenous communities' and it included 'army troops being deployed to Indigenous communities in the Northern Territory'.<sup>15</sup>

Neither action could happen in a state because state constitutions provide entrenched powers and legislative independence from the federal government. The NT is without a constitution; in its absence, the Self-Government Act is effectively the constitution.

#### *Financial arrangements and economy*

The NT has been funded as a state by the federal government since 1988.<sup>16</sup> Funding arrangements apply:

on the principle of 'horizontal fiscal equalisation' meaning that funding is provided on the basis of what it costs to deliver a service per person in the NT. Distance is factored in to the Commonwealth's formula, often to the chagrin of the more populous states.<sup>17</sup>

14 Also known as 'the Andrews Bill' because it was sponsored by the Member for Menzies (Victoria) Kevin Andrews MHR.

15 Castan Centre, Monash University n.d.

16 Smith 2013, 25.

17 Smith 2013, 93.

Funding for Aboriginal disadvantage, however, has been a contentious matter since self-government was established in 1978. Speaking at the 2017 Garma Festival of Traditional Culture, former Chairman of the NT Grants Commission and former Coordinator-General Bob Beadman said that while the reason for the dearth in funding is multifaceted, a fundamental reason is that ‘The Commonwealth Grants Commission carve-up provided no catch-up to address the infrastructure deficit dump passed to the NT at the time of Self-Government’.<sup>18</sup>

Because of the small population, there are limited revenue-raising opportunities for NT governments. Taxation revenue is limited to payroll, motor vehicle registration and stamp duty-type revenue. The boom and bust nature of the NT’s resource-based economy means there is some income from mining royalties, but these are subject to minimisation by the companies concerned and don’t contribute a great deal to the NT budget.<sup>19</sup> Thus the NT is heavily reliant on federal government funding.

Notwithstanding that 30 per cent of the population is Aboriginal, the NT is losing ‘Indigenous funding’ to other states because increasing numbers of people in those states are identifying as Aboriginal. This is complicated by the Commonwealth Grants Commission’s failure to assess relative need between Aboriginal populations in Australia<sup>20</sup> since its creation in 1933.

The enduring lack of comprehensive federal policy in relation to northern Australia has been lamented by Megarrity<sup>21</sup> as the ‘politics of neglect’ based on viewing the nation’s north as an economy rather than a society, and failing to consider intellectual contributions from a range of community members. Historical neglect, he noted, means that the north is still considered a wild, frontier land for which visions of wealth and splendour are a product of east coast metropolitan ‘white fella Dreaming’.

#### Political parties

There are two dominant political parties in the NT: the Country Liberal Party (CLP) and the Australian Labor Party (ALP). The CLP was formed in 1974, when the Liberal Party, which was concentrated in Darwin, and the Country Party, which was concentrated in regional bush centres, merged to become the sole conservative force. The NT branch of the ALP was formed in 1973 and has traditionally been regarded as ‘weak’ because:

18 Beadman 2017.

19 See Northern Territory Government 2019.

20 For example, there is no distinction between the remote community of Papunya in Central Australia and Parramatta in urban NSW so the same ‘loading’ applies to both communities. See also Beadman in Productivity Commission 2017.

21 Megarrity 2018, 183.

The small size of the urban centres and the almost total lack of any large-scale industrial development has meant that the Labor party has no ‘natural’ base of membership and money. [Additionally,] organization of an industrial wing and a branch structure was made difficult by the vast distances, the poor communications and the costs of transport.<sup>22</sup>

This difficulty was well demonstrated when the CLP held power in the NT from 1974 until 2001, when the ALP experienced its inaugural victory.

#### Aboriginal representation in the Legislative Assembly

Electoral laws applying at the 1974 and 1977 elections provided for voluntary enrolment of Aboriginal people, although, if enrolled, voting was compulsory. By the 1980 election, enrolment and voting were compulsory for all qualified residents. Prior to 1980, remote Aboriginal people were obliged to use the postal vote system; however, this was replaced with mobile polling booths in remote communities<sup>23</sup> and candidates identified both by name and photograph on ballot papers, recognising that English was a second or subsequent language in many communities. This more inclusive practice remains the case.

Aboriginal electoral enrolment is comparatively low,<sup>24</sup> particularly in remote regions. The reasons are complicated and include language difficulties, relevance of the electoral system, electoral roll accuracy and the logistical difficulties of undertaking remote enrolment drives.

There has been Aboriginal membership of the Legislative Assembly since 1974, although membership of more recent Assemblies better reflects the NT’s 30 per cent Aboriginal population. There have been several Aboriginal ministers – men and women – in NT governments.

#### Elections

Four-year fixed-term elections were introduced in the NT in 2009. Table 1 lists the results of each general election since the Legislative Assembly was created in 1974.<sup>25</sup>

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22 Jaensch 1981, 64.

23 Jaensch and Smith 2015, 62–3.

24 See, for example, James 2016.

25 More detailed results and those relating to by-elections can be found at Jaensch and Smith 2016, 73–81, or on the NT Electoral Commission website.

**Table 1 Northern Territory general election results, 1974–2016.**

| Election | Enrolment | Seats won          | Leaders |     |                |                 | Government |
|----------|-----------|--------------------|---------|-----|----------------|-----------------|------------|
|          |           | Ind/<br>Other      | ALP     | CLP | ALP            | CLP             |            |
| 1974     | 39,027    | 2 (Ind)            | 0       | 17  | NA             | Goff Letts      | CLP        |
| 1977     | 43,284    | 1 (Ind)            | 6       | 12  | Jon Isaacs     | Paul Everingham | CLP        |
| 1980     | 53,218    | 1 (Ind)            | 7       | 11  | Jon Isaacs     | Paul Everingham | CLP        |
| 1983     | 62,178    | 0                  | 6       | 19  | Bob Collins    | Paul Everingham | CLP        |
| 1987     | 74,633    | 2 (Ind)<br>1 (Nat) | 6       | 16  | Terry Smith    | Steve Hatton    | CLP        |
| 1990     | 82,261    | 2 (Ind)            | 9       | 14  | Terry Smith    | Marshall Perron | CLP        |
| 1994     | 95,007    | 1 (Ind)            | 7       | 17  | Brian Ede      | Marshall Perron | CLP        |
| 1997     | 101,886   | 0                  | 7       | 18  | Maggie Hickey  | Shane Stone     | CLP        |
| 2001     | 105,506   | 2 (Ind)            | 13      | 10  | Clare Martin   | Denis Burke     | ALP        |
| 2005     | 111,954   | 2 (Ind)            | 19      | 4   | Clare Martin   | Denis Burke     | ALP        |
| 2008     | 119,814   | 1 (Ind)            | 11      | 13  | Paul Henderson | Terry Mills     | ALP        |
| 2012     | 123,805   | 1 (Ind)            | 8       | 16  | Paul Henderson | Terry Mills     | CLP        |
| 2016     | 135,506   | 5 (Ind)            | 18      | 2   | Michael Gunner | Adam Giles      | ALP        |

Source: ntec.nt.gov.au

## Land rights

During the 1960s, Aboriginal political activism accelerated. The Yirrkala Bark Petitions, protesting against the granting of mining leases over Yolŋu land without consultation, were presented to the federal parliament in 1963. Vincent Lingiari led the historic Wave Hill walk-off in 1965 to press for equal wages for Aboriginal stockmen. A 1967 referendum, which sought a mandate to remove sections of the Constitution that discriminated against Aboriginal people,<sup>26</sup> was supported. Prime Minister Gough Whitlam introduced a Bill for the Land Rights Act and, after the Whitlam dismissal in 1975, the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA) was passed by the federal parliament with bipartisan support in December 1976.

The Self-Government Act is at loggerheads with ALRA, however, because:

very little thought was given back in 1978 to what legal and institutional relationships needed to exist between the new government, land councils and traditional owners to allow for a smoothly functioning polity. Those relationships remain confused and ill-defined.<sup>27</sup>

At issue is the fact that 51 per cent of the NT's land mass is designated Aboriginal land over which the NT government has no control. Equally, Aboriginal people have limited control over their land because power in relation to decisions about Aboriginal land is vested in Aboriginal land councils<sup>28</sup> to act in the interests of traditional owners. This, said Parish, has resulted in a 'largely unplanned system of separation of powers', with no constitutional foundation, between the federal and NT governments.

The two largest land councils – the Northern (NLC) and Central (CLC) – are often criticised for not representing the wishes of some or all traditional owners. In a 1998 review of ALRA by John Reeves QC, the Act was found to have 'generated internal disputes by concentrating benefits in the hands of individuals' and resulted in 'selected individualism' that also affected royalty distributions. The absence of a more productive partnership, he said, was 'to the detriment of ... Aboriginal Territorians'.<sup>29</sup>

Most recently, these land councils have been criticised for entering into a memorandum of understanding with the chief minister in relation to treaty negotiations. Groups such as the Yolŋu of Arnhem Land, represented by the independent member Yingiya Guyula, claim to have been left out of the process.

26 Note that the referendum did not confer voting rights on Aboriginal people. The federal parliament provided for Aboriginal people to vote in 1962.

27 Parish 2018.

28 There are four land councils in the NT: the Northern Land Council, Central Land Council, *Tiwi* Land Council, and *Anindilyakwa* Land Council.

29 Brennan 2006, 3.

The Self-Government Act and ALRA are products of the Australian parliament over which the NT has no control.

#### Federal representation

Section 122 of the *Commonwealth of Australia Constitution Act* 1900 (UK) provides the NT with two senators and two members of the House of Representatives. This has been the case since 1975; however, 'the legislation to enable this representation was the subject of great rancour, only passing the Commonwealth parliament following affirmation at a joint sitting of the two houses and subsequently surviving two High Court challenges.'<sup>30</sup>

The rancour, Michael Sloane says in his paper on representation of the territories in the Senate, was caused by the potential 'Constitutional imbalance' it would unleash on the Senate. He points out that the Constitution preserves the rights of 'original States' and stipulates that changes to Senate representation, which in turn affect House of Representatives numbers, must 'maintain parity in the representation of the original states'.

#### Statehood

The issue of whether the NT should be admitted as the seventh state of the Australian federation has been contentious for a variety of reasons, including the relatively small population, negotiations with the federal government on terms and conditions of admission<sup>31</sup> under section 106 of the Constitution<sup>32</sup> and internal wrangling within the NT about whether statehood is a priority, the mechanics of how to proceed and, at a very local level, whether residents will lose open speed limits and their annual cracker night – two issues that were identified in NT-wide surveys undertaken by the Statehood Steering Committee. The latter concerns resulted in a dedicated fact sheet<sup>33</sup> explaining that these matters are not subject to Commonwealth laws and are the responsibility of the NT government.<sup>34</sup>

The Legislative Assembly appointed a Select Committee on Constitutional Development in 1985, which was superseded by a Standing Committee on Legal and Constitutional Affairs. Following the overturning of ROTI in 1997, the impetus for statehood was invigorated.

A constitutional convention was held in 1998, but Aboriginal people and some trade union representatives walked out in protest. Aboriginal people held their own

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30 Sloane n.d.

31 Including Senate representation (see also federal representation).

32 Horne 2008.

33 Northern Territory Statehood Steering Committee 2005.

34 It is the case, however, that the Commonwealth government made abolition of open speed limits a condition of federal funding. The NT complied.

conventions in the same year, which resulted in two statements: the Kalkarindji Statement of August and the Batchelor Statement of December. The message from both statements was clear: there would be no discussion about statehood unless Aboriginal Territorians were consulted and included in negotiations.<sup>35</sup>

Meanwhile, a referendum on statehood was held on 3 October 1998 and narrowly lost, with a 51.31 per cent ‘no’ vote. Aboriginal people voted in a solid bloc against the proposition. Three questions had been recommended by the constitutional convention, but Chief Minister Shane Stone rolled them into this single question, as Smith describes:

Now that a constitution for a state of the NT has been recommended by the statehood convention and endorsed by the NT parliament, do you agree that we should become a state?

The ‘constitution’ referred to in the referendum question provided for the Premier to sack the Governor, which would render a Governor little more than a public servant and would potentially establish the state of the NT as a benign dictatorship.<sup>36</sup>

The ALP resurrected the idea in 2003, after its election in 2001, with bipartisan support. Despite considerable expense and an extraordinary amount of work, the matter lapsed in 2016 after political wrangling about the timing of an election for a fresh constitutional convention. Chief Minister Adam Giles raised the issue at the Council of Australian Governments in 2016, when the idea was supported in principle and the onus returned to the NT to formulate a proposal. The matter has not seriously resurfaced since.

## Conclusions

The NT enjoys a peculiar position in the Australian federation, but essentially functions as a state to the extent that the Self-Government Act allows. Friction arises – usually resulting in debates about ‘states rights’ – when the Commonwealth intervenes in NT matters, as was the case with the *Euthanasia Laws Act 1997* and the Intervention.

The NT is characterised by intergenerational Aboriginal disadvantage, giving rise to complex social problems requiring considered and enduring policy responses, which, in turn, require significant funding. Principal among these are generations of Territorians suffering from foetal alcohol spectrum disorder.

Commonwealth funding arrangements, particularly in the area of Aboriginal disadvantage, have been contentious since the advent of self-government. Similarly,

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<sup>35</sup> Smith 2008, 265.

<sup>36</sup> Smith 2008, 264. See also Smith 2013, 27.



Goods and Services Tax distribution between the states under Grants Commission relativities is regarded as inadequate.

Whether or not the NT becomes Australia's seventh state is a matter for residents, the NT and federal governments. Key among the issues to be resolved is representation in the Australian parliament. At a broader level, recognition of Aboriginal people as the first inhabitants of the NT is a matter for both the NT and federal governments and will be crucial to any negotiations in relation to statehood.

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# Queensland

Paul D. Williams

## Key terms/names

accountability, country-mindedness, Fitzgerald Inquiry, meta-populism, political culture, populism, regionalism, state chauvinism, unicameralism

Given that Queensland's 1.85 million square kilometres make the state Australia's second largest in area, any meaningful analysis of Queensland politics must be made on regional bases. Moreover, given it is also farther from Brisbane to Cairns than it is from Brisbane to Melbourne, it is unsurprising scholars have argued a 'two Queenslands' thesis that divides the state into 'coast versus inland'<sup>1</sup> or, more commonly, between 'Brisbane and the bush'.<sup>2</sup> It has been argued elsewhere, however, that Queensland's economic, political and cultural variations are far more nuanced, and that a 'six Queenslands' model is required for more meaningful analysis.<sup>3</sup> Queensland's population surpassed five million in May 2018, to make the state Australia's third most populous. Queensland's capital city houses 2.4 million people and it is the nation's third most populous city.<sup>4</sup> Brisbane, Australia's largest local government authority since 1924, is just one of 77 councils and shires – down from 156 in 2007 – comprising local government under state control. The fact that more Queenslanders live outside their capital city than within it – the only

Williams, Paul D. (2019). Queensland. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.978174332667

1 Holmes 1994.

2 Bowers 1986; Williams 2012a.

3 Williams 2019.

4 Population Australia 2018.

Australian state or territory where this occurs – indicates the power of Queensland's regions. More often, however, Queensland is anecdotally referred to as a state divided between the two-thirds of residents who live in the state's 'southeast' and the one-third who reside in the 'rest' of the state.<sup>5</sup>

#### Political culture and populism

While each of Australia's states and territories enjoys its own political culture, it has been argued that Queensland's varies from the norm more than any other Australian state, largely due to its regionally centred industries, heavily decentralised population and huge variations in topography, climate and natural resources.<sup>6</sup>

It has been further argued that 'populism' – a political movement that mobilises a 'common people' against a vilified 'elite' – sits at the core of Queensland political culture. Populist leaders – notable Queensland examples include William Forgan Smith, Joh Bjelke-Petersen, Pauline Hanson and Clive Palmer – harness support by appealing directly to (often less educated) voters who, usually located in the regions, regard themselves as 'outsiders' who feel 'dispossessed by technology or other social or economic change'.<sup>7</sup>

Queensland's special brand of populist political culture consists of five mutually reinforcing elements: strong (often authoritarian) leadership that allows premiers to dominate party, Cabinet, parliament and public opinion; political pragmatism (from bypassing due process to policy flexibility); regionalism (appealing to the 'country-mindedness'<sup>8</sup> of rural Queensland); state development (a mission to develop Queensland's wilderness); and a state 'chauvinism' that asserts Queensland's economic, cultural and moral difference from other jurisdictions.<sup>9</sup>

Moreover, as increasingly better educated Queenslanders become aware of these populist appeals – and as leaders become increasingly self-aware of the electorate's own cognisance – these mantras, in turn, have evolved into a 'meta-populism', whereby leaders engage in populism to the point that all stakeholders – leaders, media and voters – accept this leadership style as part and parcel of 'doing' politics in Queensland. In this sense, meta-populism has extended the life of traditional populism far beyond that normally expected in an increasingly educated electorate.<sup>10</sup>

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5 Williams 2019.

6 Smith 1985; Williams 2009.

7 Canovan 1981; Wear 2008; Williams 2009.

8 Aitkin 1985.

9 Williams 2009, 18–29.

10 Williams 2001a.

## Queensland's historical themes

Queensland's populism is a function of at least seven core themes that have come to define the state's history. These are: a heavy emphasis on regionalism borne from the dominant primary industries of pastoralism, agriculture and mining; a propensity to pit one group against another for base political gain; a propensity to re-elect, often for decades on end, strong governments with huge parliamentary majorities to create 'electoral hegemonies';<sup>11</sup> the mission to pragmatically develop the *tabula rasa*<sup>12</sup> (or 'blank slate') of the state's regions; a propensity for governments to manipulate the checks and balances on executive power;<sup>13</sup> a tendency for Queensland politics to polarise into extremism, from Labor's early state socialism on the left to One Nation's reactionary conservatism on the right; and, last, Queenslanders' longstanding support for the public ownership of state assets.<sup>14</sup>

## Periodising Queensland history

*Indigenous Queensland*

It is vital to distinguish Aboriginal Australians – who have occupied that part of the continent now known as Queensland for at least 50,000 years – from Torres Strait Islander peoples. Collectively, Indigenous Australians comprise 4 per cent of the state's population (90 per cent of whom identify as Aboriginal, 6 per cent as Torres Strait Islander, and 4 per cent as both), with wide variations in language and culture evident. As with other Australian colonies, pioneering farmers' poor relations with Indigenous peoples, sometimes culminating in violence and murder, remain a stain on early European settlement.<sup>15</sup>

*The 'pre-party' period, 1860 to 1890*

Queensland's 'pre-party' period (1860 to 1890), saw MPs elected as independents without party affiliation, but almost always on the converged political interests of rural and urban capital under loosely defined labels of 'liberal' or 'conservative'. Consequently, MPs frequently 'crossed the floor' as governments rose and fell with alacrity. Between 1860 and 1890, for example, Queensland saw 14 discrete premierships.

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11 Williams 2011; Williams 2004.

12 Waterson 1990, 139.

13 Wear 2002.

14 Williams 2010a, 299.

15 Evans 2007, 70; Johnston 1988, 79–86.

**Table 1 Queensland premiers, first period, 1859–1890**

| Premier           | Identity     | Tenure  |
|-------------------|--------------|---------|
| Robert Herbert    | Conservative | 1859–66 |
| Arthur McAlister  | Independent  | 1866    |
| Robert Herbert    | Conservative | 1866    |
| Arthur McAlister  | Independent  | 1866–67 |
| Robert Mackenzie  | Conservative | 1867–68 |
| Charles Lilley    | Liberal      | 1868–70 |
| Arthur Palmer     | Conservative | 1870–74 |
| Arthur McAlister  | Liberal      | 1874–76 |
| George Thorn      | Liberal      | 1876–77 |
| John Douglas      | Liberal      | 1877–79 |
| Thomas McIlwraith | Conservative | 1879–83 |
| Samuel Griffith   | Liberal      | 1883–88 |
| Thomas McIlwraith | Conservative | 1888    |
| Boyd Morehead     | Conservative | 1888–90 |

Source: University of Western Australia n.d.

*'Proto-party' period, 1890 to 1910*

A second 'proto-party' period (1890 to 1910) saw the major parties find early form without modern definition. This period was dominated by the 'Continuous Ministry' that saw the conservative McIlwraith and the liberal Griffith unite to create a powerful proto-party – the 'Griffilwraith' arrangement.<sup>16</sup> Interrupted by the short-lived Dawson Labor government in 1899,<sup>17</sup> the Continuous Ministry endured until 1903. In 1908, the dissident Labor premier William Kidston 'fused'

<sup>16</sup> Joyce 1977, 119.

<sup>17</sup> Fitzgerald 1999.

**Table 2 Queensland premiers, second period, 1890–1911**

| Premier           | Identity           | Tenure    |
|-------------------|--------------------|-----------|
| Samuel Griffith   | Liberal            | 1890–93   |
| Thomas McIlwraith | Conservative       | 1893      |
| Hugh Nelson       | Ministerial        | 1893–98   |
| Thomas Byrnes     | Ministerial        | 1898      |
| James Dickson     | Ministerial        | 1898–99   |
| Anderson Dawson   | Labor              | 1899      |
| Robert Philp      | Ministerial        | 1899–1903 |
| Arthur Morgan     | Liberal            | 1903–6    |
| William Kidston   | Labor/Kidstonite   | 1906–7    |
| Robert Philp      | Conservative       | 1907–8    |
| William Kidston   | Kidstonite/Liberal | 1908–11   |

Source: University of Western Australia n.d.

with Robert Philp to form the first Liberal Party to produce the state's first two-party system.

*'Pre-Fitzgerald party' period, 1910 to 1990*

The landmark 1989 Fitzgerald Inquiry into police and government corruption in Queensland (1987–89) proved so traumatic that its recommendations to completely overhaul the state's political, electoral and public administration institutions have cleaved the state's history between a 'pre-accountability' period before 1990 and a 'post-accountability' period since. Consequently, we can describe Queensland's third political phase as a 'pre-Fitzgerald party' period (1910 to 1990) that saw the major parties emerge as mass-based professional organisations capable of stable, long-term government and, critically, enormous power with few checks and balances. This phenomenon of executives dominating parliaments was exacerbated after the abolition of the Legislative Council in 1922.

This period saw just two electoral ‘hegemonies’: Labor from 1915 to 1957 (with a single interruption 1929–32) and the Coalition from 1957 to 1989. Labor, under the governments of T.J. Ryan<sup>18</sup> and Edward ‘Red Ted’ Theodore,<sup>19</sup> found early support by bridging urban and regional interests in, for example, the establishment of the eight-hour day and compensation for injured workers. Indeed, Labor practised a form of ‘state socialism’ in the early part of the period when state-owned sugar refineries, butcher shops, hotels and even an insurance company were founded.<sup>20</sup>

This created something of a bipolarity within early Labor governments: while administering progressive, even radical, economic policies – Queensland was often described as the ‘Red North’<sup>21</sup> – premiers exercised socially conservative, and often authoritarian, leadership. The premiership of Ned Hanlon (1946–52) is a case in point: Hanlon established the much-valued free public hospital system and, conversely, took a hard line against striking meat and railway workers.<sup>22</sup> While strong leadership was a key factor in Queensland Labor’s ability to avoid the 1916–17 ‘conscription split’ that engulfed other state branches, division could not be avoided in 1957 when the Labor Party’s organisational wing clashed with another authoritarian premier, Vince Gair, ostensibly over the issue of workers’ leave, but, in reality, over the conservative faction’s fears of communist influence. The resulting split kept Queensland Labor in opposition for 32 years.

By contrast, the Coalition ‘hegemony’, dominated by just two Country (later National) party premiers – ‘Honest’ Frank Nicklin (1957–68) and Joh Bjelke-Petersen (1968–87) – was marked not only by stability but by rapid economic development in the state’s south-east. It also saw the cultivation (via an electoral malapportionment that saw Country Party-voting regional seats with far fewer voters than Labor- and Liberal-voting urban seats) of systemic corruption within senior ranks of police and Cabinet. By the time of Bjelke-Petersen’s premiership in the 1970s, mining had replaced agriculture as the state’s major export sector and Queensland had become synonymous with arch-conservative authoritarian leadership.

#### *‘Post-Fitzgerald party’ period, 1990 to present*

The state’s fourth era, a ‘post-Fitzgerald party’ period (1990 to present), has seen the major parties continue to dominate politics – with increased competition from minor players – but within the constraints of such key institutions as an

18 Murphy 1990.

19 Fitzgerald 2002.

20 Fitzgerald 1984, 6–8.

21 See Menghetti 1981. The fact that Fred Paterson, MLA for Bowen 1944–50, remains the only Communist Party member elected to an Australian parliament suggests descriptions of Queensland as historically ‘conservative’ are misplaced. See Fitzgerald 1997.

22 Blackmur 1996.



**Table 3 Queensland premiers, third period, 1911–90**

| <b>Premier</b>           | <b>Party</b>                        | <b>Tenure</b> |
|--------------------------|-------------------------------------|---------------|
| Digby Denham             | Liberal                             | 1911–15       |
| T.J. Ryan                | Labor                               | 1915–19       |
| Edward ‘Ted’ Theodore    | Labor                               | 1919–25       |
| William Gillies          | Labor                               | 1925          |
| William McCormack        | Labor                               | 1925–29       |
| Arthur Moore             | CPNP                                | 1929–32       |
| William Forgan Smith     | Labor                               | 1932–42       |
| Frank Cooper             | Labor                               | 1942–46       |
| Ned Hanlon               | Labor                               | 1946–52       |
| Vince Gair               | Labor                               | 1952–57       |
| Frank Nicklin            | Country                             | 1957–68       |
| Jack Pizzey              | Country                             | 1968          |
| Gordon Chalk             | Liberal                             | 1968          |
| Johannes Bjelke-Petersen | Country; National-Country; National | 1968–87       |
| Mike Ahern               | National                            | 1987–89       |
| Russell Cooper           | National                            | 1989          |

Source: University of Western Australia n.d.

independent Crime and Corruption Commission, a non-partisan Electoral Commission, a Right to Information Commissioner, an Integrity Commissioner, an Ombudsman, and reformed public service, Cabinet and parliamentary practices. Importantly, this period also saw economic rationalism steer the state into administrative efficiency.<sup>23</sup> Indeed, reforms in agriculture and pastoralism caused

<sup>23</sup> Walker 1995; Wanna 2003.

such significant economic (and consequently political) dislocation in regional Queensland that populist minor parties were empowered to seize significant vote shares.<sup>24</sup> Given this looming economic backlash, the reformed National–Liberal coalition under Rob Borbidge and Joan Sheldon assumed minority government in 1996.<sup>25</sup> Debilitated by the rise of Pauline Hanson’s One Nation (PHON) – itself fuelled by regional anger over gun control and the High Court’s *Mabo* and *Wik* decisions – Labor returned to (briefly minority, and later majority) government in 1998 under Peter Beattie, whose inclusive populism,<sup>26</sup> affable leadership and ubiquitous media presence<sup>27</sup> complemented his penchant for *mea culpa* and policy backflip.<sup>28</sup> Indeed, Labor under Beattie in 2001 attained its largest parliamentary majority since 1935.<sup>29</sup> Anna Bligh, succeeding Beattie as Queensland’s first woman premier in 2007, was popular for her handling of the 2011 Queensland floods, but asset privatisation and public policy failures saw Labor suffer its worst ever defeat in 2012.<sup>30</sup> When Annastacia Palaszczuk assumed leadership of the Labor Party most expected that the party would be in opposition for a generation, but the Newman government’s own unpopular privatisation policies saw the LNP defeated after a single term.<sup>31</sup> Palaszczuk’s Labor Party won government in its own right in late 2017, largely on voters’ fears of political instability in any LNP–PHON coalition.<sup>32</sup>

#### Key institutions and actors

Queensland’s political parties grew organically from local industrial bases. Pastoralism, Queensland’s first industry, nurtured a wealthy ‘squattocracy’<sup>33</sup> that dominated parliament and government, and later comprised the core of the first Country Party. Agriculture, the colony’s second industry, in turn created a smaller rural middle class unique to Queensland. Many agriculturalists – often reliant on government infrastructure – gravitated to late 19th-century social liberalism and would later comprise the early Liberal parties.<sup>34</sup> A small but more traditional middle class also developed among professionals and business owners in urban centres and that, too, gravitated to the Liberals. With the discovery of gold in Queensland in the 1860s, mining soon comprised Queensland’s third industry

24 Leach, Stokes and Ward 2000, 9.

25 The 1995 Queensland election saw Labor retain government by a single seat. Labor’s result in Mundingburra was later overturned in the Court of Disputed Returns and, after the Liberals won the early 1996 re-election, the Goss government resigned.

26 Preston 2003; Wanna and Williams 2005.

27 Wanna and Williams 2005; Williams 2007.

28 Williams 2005.

29 Williams 2001b.

30 Williams 2012b, 643.

31 Williams 2018a.

32 Williams 2018b.

33 Fitzgerald 1982, 125.

34 Fitzgerald 1982, 125.

**Table 4 Queensland premiers, fourth period, 1990–2020**

| Premier               | Party            | Tenure    |
|-----------------------|------------------|-----------|
| Wayne Goss            | Labor            | 1989–96   |
| Rob Borbidge          | National         | 1996–98   |
| Peter Beattie         | Labor            | 1998–2007 |
| Anna Bligh            | Labor            | 2007–12   |
| Campbell Newman       | Liberal–National | 2012–15   |
| Annastacia Palaszczuk | Labor            | 2015–     |

Source: University of Western Australia n.d.

and, as elsewhere, miners often looked for more radical political solutions.<sup>35</sup> Farm labourers in the bush and industrial workers in the city were, however, the core of Queensland's working class.<sup>36</sup>

#### *Australian Labor Party*

Queensland Labor has governed Queensland for 75 of the 110 years between 1910 and 2020 and, consequently, has been labelled Queensland's 'natural party of government'.<sup>37</sup> Trade unions became legal in Queensland only in 1886 and therefore took root later than in other colonies. Despite this, the first Trades and Labour Council was soon formed to represent workers industrially and, later, to nominate 'labour' candidates for election. By 1889 the Australian Labour Federation (ALF) was established, but the monumental shearers' and maritime strikes of 1890–91 – called to fight falling wages in the teeth of looming economic depression – depleted ALF resources. After the strikes failed to achieve desired outcomes, workers established a new Australian Labor Party in Barcaldine, western Queensland, to sponsor trade union candidates who could change industrial laws from within the parliament.<sup>38</sup>

Labor remains a 'labourist' party based on trade union membership – the Australian Workers' Union (formed by sheep shearers) has comprised a key powerbase within Queensland Labor for more than a century – and has enjoyed enormous success for several reasons, including strong populist leadership,

35 Stoodley 1970, 164.

36 Murphy 1975, 129–215.

37 Costar 1988.

38 McMullin 1991, 1–14.

balancing urban and regional interests, a comprehensive branch structure, close union affiliation and support, delivery of social services, and a commitment to the ownership of public assets. Since 1989, Labor's success has also been found in its ability to manage internal dissent through an organised factional system. Prior to 1980, Queensland Labor resembled a blue-collar trade unionist clique that, prone to internecine warfare under Trades Hall control, proved electorally unappealing. After federal Labor removed this cabal and introduced internal democratic practices, a transparent 'consociational' (formal power-sharing) factional system developed where the conservative 'Old Guard' (now Labor Unity) would share power with the right-leaning Australian Workers' Union (now Labor Forum) and the Socialist Left.<sup>39</sup> Labor Forum proved the strongest faction between 1989 and 2012; since 2015 the Socialist Left has controlled both caucus and Cabinet. Consequently, women, middle-class white-collar workers and migrants joined the party in significant numbers. Labor today demands at least 40 per cent of its candidates should be women, and aspires to have 50 per cent women MPs by 2025.

#### *National Party*

The conservative National Party owed much of its heritage to 19th-century pastoralists, with Thomas McIlwraith as arguably the party's spiritual father. But the party itself began life – as Labor did – as a sectional pressure group designed to enhance members' conditions. Faced with a growing Brisbane 'liberal' faction in the Ministerialists, a few farmers in 1895 formed a Farmers' Union 'to watch over, encourage, and endeavour to develop agricultural interests'.<sup>40</sup> By 1902, the organisation had unsuccessfully contested elections; most farmers remained loyal to the Ministerialists. By 1909 the Farmers' Parliamentary Union had formed, then reformed in 1913 into the Country Liberal Party (CLP), and again into the more successful Country Party in 1920.

Wearied by successive defeats by Labor through a splitting of support between Country and Nationalist (Liberal) candidates, the two non-Labor parties merged into a single Country and Progressive National party (CPNP) in 1925. After winning government in 1929, the CPNP was despatched to opposition after a single term in 1932, and dissolved in 1935. The revived Country Party, anxious to modernise its image and capture urban votes, became the National–Country Party in 1974, and the National Party in 1982. The transformation worked: the National Party (now known colloquially as 'The Nationals') under Joh Bjelke-Petersen – who married rural agrarianism to urban development while exercising authoritarian leadership under a law-and-order mantra – won government in their own right at the 1983 and 1986 elections.<sup>41</sup>

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39 Wanna 2000.

40 Bernays 1919, 147.

41 Metcalf 1984.

Part of the National Party's success during those years lay in its organisational wing's power – less than Labor's but exceeding the Liberals' – to set party policy and direct MPs. The Nationals lost the electorate's confidence after 1987, however, as Bjelke-Petersen embarked on an ill-conceived campaign to become prime minister, and after the Fitzgerald Inquiry revealed widespread government corruption. Forming government only briefly with the Liberals (1996–98), the Nationals struggled for both credibility and identity and, in 2008, dissolved.

#### *Liberal Party*

The Queensland Liberal Party owed its heritage to a rural (agriculturalist) and smaller urban (business and professional) middle class, with Samuel Griffith a guiding force. Long before formal organisation, however, numerous MPs adopted an ill-defined 'liberal' label despite sharing many 'conservative' values. Liberals and conservatives pragmatically set aside their difference in the late 19th and early 20th centuries to form the 'Ministerialists'. But, by 1909, progressives had merged with Labor defectors to assume the name 'Liberal' and, in 1917, 'Nationalist'. By 1923 the party had become the Queensland United Party, and in 1925 renamed again when merging with the Country Party to become the CPNP. After dissolution it became the Queensland's People's Party in 1943, and the Liberal Party in 1949, and remained in opposition as junior coalition partner with the Country Party until 1957. Hampered by the zonal electoral system that benefitted the Country (National) Party, the Liberals also suffered from the absence of a large urban middle class. Only as Liberal-voting migrants from southern states resettled in Queensland did party support reach critical mass, despite the Liberals being often accused of meekly acquiescing to the Nationals' authoritarianism.<sup>42</sup> When progressive Liberals demanded the Nationals install key accountability reforms, Bjelke-Petersen acrimoniously ended the coalition in 1983.

#### *Liberal-National Party, 2008–present*

Confounded by repeated defeats at Labor's hands during the Beattie era – and concerned that dwindling rural populations would eventually extinguish the need for a stand-alone National Party – the then Nationals leader Lawrence Springborg united the Liberal and National parties under a single constitution in 2008. The LNP – technically a branch of the federal Liberal Party – enjoyed limited success in 2009 before winning the largest parliamentary majority in Australian history in 2012. The party lost the 2015 election, and the loss of 16 percentage points in primary vote between 2012 and 2017 – largely due to the party's former privatisation agenda and tensions between 'Liberal' and 'National' tribes – have prompted calls for the party's dissolution.

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<sup>42</sup> Fitzgerald, Megarrity and Symons 2009, 177.

### *Queensland Greens*

The Queensland Greens – drawn from the Brisbane Green Party founded in 1984 – were formed in 1991 as a party dedicated to ‘non-violence, social justice, grassroots democracy [and] ecological sustainability’.<sup>43</sup> Initially slow to find traction in a conservative state committed to development and the extractive (especially coal) industries,<sup>44</sup> the Queensland Greens now poll 10 per cent of the state primary vote (and much higher in inner Brisbane), saw their first state MP elected in 2017, and have enjoyed Senate representation since 2010. The Greens’ commitment to internal democracy sees leaders elected – and major policy questions settled – by postal ballot among all branch members.<sup>45</sup>

### *Pauline Hanson's One Nation (PHON)*

The economic rationalism of the 1990s placed much of Queensland’s regional and rural population under pressure. Additional fears over Indigenous rights and gun control – and the National Party that many saw as abandoning traditional Country Party values – created a vacuum on the right of Queensland politics that was filled in 1997 by PHON. Hanson, whom the Liberal party disendorsed shortly before the 1996 federal election for alleged racism – and who would go on to win her seat of Oxley as an independent – galvanized the fears of regional and urban fringe ‘outsiders’ who felt Coalition and Labor governments each pandered to ‘elites’ and ‘special’ interests. PHON was immediately successful in winning almost 23 per cent of the primary vote and 11 seats at the 1998 Queensland election. But party unity and a coherent ideology proved elusive for the fledgling party and, within a year, all sitting MPs had resigned from PHON.<sup>46</sup> With Hanson and her senior advisers accused of undemocratic leadership, party support collapsed and PHON all but disappeared. Amidst more recent debates over (Muslim) immigration, PHON support returned.<sup>47</sup>

### *Others*

Minor and micro parties play an increasingly critical role in Queensland politics at a time when voters feel established parties no longer represent constituents’ needs. Katter’s Australian Party (KAP) – like PHON – is a populist, anti-free-trade party that increased its vote at the 2017 Queensland election. Other recent, now defunct, right-wing micro parties include the Confederate Action Party, the Citizens’ Electoral Council and the City–Country Alliance. The centrist Australian

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43 Queensland Greens 2019.

44 Williams 2006.

45 Queensland Greens 2019.

46 Six MPs resigned to sit under the newly formed City–Country Alliance; five resigned to sit as independents.

47 Williams 2018b.

Democrats, the conservative Family First and the single-issue Daylight Saving for South East Queensland (DS4SEQ) are also recently retired parties, while the Palmer United Party (renamed the United Australia Party in 2018) contested the 2019 federal election without winning a single Senate or House of Representatives seat. Independent candidates have also enjoyed recent support, with Liz Cunningham (Gladstone) and Peter Wellington (Nicklin) sharing the balance of power in recent hung parliaments.

### *Parliament*

The Queensland parliament, comprised of a single Legislative Assembly chamber, is unique among Australian states.<sup>48</sup> Critically, Queensland's unicameral status since the abolition of the Legislative Council in 1922 has arguably facilitated authoritarian leaders and undemocratic practices, and compromised the checks and balances of public accountability to produce in the 20th-century systemic institutional corruption. The Council was abolished by Labor partly because of its inherently undemocratic nature – councillors were not elected but appointed, for life, by the governor on the advice of the premier; Labor was also pragmatically committed to abolishing a Council that consisted almost entirely of wealthy, conservative pastoralists who frustrated most of Labor's reforms. Premier Theodore eventually flooded the Council with his own sympathetic councillors, who, in early 1922, immediately passed Labor's abolition Bill.<sup>49</sup> A referendum is constitutionally required to reinstate the Legislative Council but, despite minor parties occasionally proposing the idea, strong opposition from the major parties and the public make restoration improbable. Despite this, it can be argued that the absence of a Queensland upper house has produced the most powerful Cabinet system in Australia, and the weakest parliament; law making in Queensland is therefore more a function of Cabinet than of parliament.

Notwithstanding the above, Queensland's post-Fitzgerald parliament is hardly recognisable from that before 1990. Before the late 1980s, Queensland's few parliamentary committees performed only mundane domestic tasks;<sup>50</sup> only after the Fitzgerald reforms did Queensland gain such powerful instruments as scrutiny of legislation committees, budget estimates committees, a public works committee, a public accounts committee and an ethics committee. But even those committees do not function as intended: governments enjoy majorities on committees, thus compromising any claim to objective scrutiny. Question time is also controlled, as government MPs ask soft and contrived 'Dorothy Dixier' questions. In 2016 the Legislative Assembly was increased from 89 MPs to 93.

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48 The Australian Capital Territory and Northern Territory are also unicameral.

49 Fitzgerald 2002, 144–5.

50 Wanna and Arklay 2010, 24.

### *Premier and Cabinet*

Ideally, the Legislative Assembly will check Cabinet's authority but, in reality, the absence of a Legislative Council gives Queensland's Cabinet enormous powers, limited somewhat after 1990 by various anti-corruption commissions, parliamentary committees and freedom of information requirements. Even so, Cabinet remains the 'engine room of government'.<sup>51</sup> Until 2014, Labor Cabinets were elected by caucus ballot, with portfolios allocated by the premier. Since then, Labor premiers have handpicked their ministers. But both Labor and LNP premiers must ensure Cabinet reflects a balance between women and men, youth and experience, ideology (in Labor's case, factional representation proportional to caucus representation) and geographic location.<sup>52</sup> The size of Cabinet is entirely the premier's prerogative – the opposition leader will appoint the same number of 'shadow' ministers as portfolio 'spokespersons' – and, in recent years, 'assistant ministers' have also been appointed to create a broader frontbench. While the collective ministerial convention obliging the entire Cabinet to resign after a loss of lower house confidence is today unknown but not extinct, individual ministerial responsibility is upheld – often reluctantly – with ministers required to resign for policy or personal failings.

Much of Cabinet's work is done by Cabinet subcommittees, with the Cabinet Budget Review Committee (comprising the premier, treasurer and two other senior ministers) the most important. While the power of premiers is today theoretically constrained, in reality an electorally popular premier can exercise enormous influence over party, policy and public debate.

### *Public service*

Queensland's public service remains committed to the Northcote-Trevelyan principles of 1854 that require permanent and politically neutral officers to offer sound advice to create a 'high performing, impartial and productive workforce that puts the people of Queensland first'.<sup>53</sup> Notwithstanding this, Queensland's public service, like other states, has seen since the 1980s a degree of politicisation at its most senior levels. In short, governments usually appoint politically sympathetic department heads whose contracts can be terminated after changes of government. This development has been defended as central to developing a more cost-effective and business-like organisation responsive to rapidly changing policy environments. But politicised senior executives are arguably compromised in their ability to deliver genuinely 'free and frank' advice. The public service is governed by the *Public Service Act 2008* (Qld) and overseen by an independent Public Service Commission. Interestingly, despite Queenslanders' support for public ownership,

51 Scott et al. 2002.

52 Hughes 1980, 154–99.

53 Queensland Government n.d.



there is community concern that growth in Queensland's public service – in 2018 standing at over 225,000 people with a total wages bill exceeding \$25 billion – is excessive.<sup>54</sup>

### *Electoral system*

Queensland's first election in 1860 was democratic by contemporary world standards but would fail to meet today's expectations. Despite the adoption of the secret ballot, only property-owning men aged 21 years and over could vote for male-only candidates for the Legislative Assembly's 26 seats.<sup>55</sup> By 1872, all males over 21 years could vote and, after 1889, MPs were paid.

Queensland has seen governments manipulate electoral systems for significant political advantage that, in turn, has seen electoral hegemonies extend far beyond that normally expected. A Queensland government first manipulated election rules in 1892 when the Continuous Ministry changed the method of voting from 'first past the post' (FPTP) – where voters check a box against their favoured candidate, and leave all others blank – to a form of optional preferential voting (OPV) known as 'contingent voting' in which voters could number additional candidates, with those 'preferences' (if no candidate enjoyed a simple majority of 50 per cent plus one vote) distributed to the two highest scoring candidates. The system is ostensibly more democratic than FPTP as it mitigates the risk of electing candidates with less than half the public's support. The Continuous Ministry's motivations, however, were instead driven by a fear of a burgeoning Labor Party splitting conservative support.<sup>56</sup>

Later reforms included the abolition of 'plural voting' – where wealthy men could vote in every district in which they owned property – and the enfranchisement of women aged over 21 (both introduced in 1905), and, from 1915, the right for women to stand for election. In 1942, the Cooper Labor government returned the state to FPTP, again to split support between non-Labor parties. In 1949 the Hanlon Labor government legislated the first zonal electoral system – a malapportionment commonly but incorrectly referred to as a 'gerrymander' – that created additional small rural districts, each with fewer voters than Brisbane seats, ostensibly because they were distant from the state's capital. Expediently, the zonal system also maximised Labor's rural support.<sup>57</sup>

In 1958 the coalition Nicklin government introduced its own malapportioned zonal system that advantaged the Country Party over both Labor and the Liberals – the Country Party frequently controlled government with as little as 20 per cent of the primary vote – and, in 1962, introduced compulsory preferential voting

<sup>54</sup> Williams 2017, 643.

<sup>55</sup> Between 1860 and 1910 Queensland's Legislative Assembly boasted some multi-member electorates with two, and occasionally three, MPs returned per district.

<sup>56</sup> Hughes 1980, 86.

<sup>57</sup> Knight 2003, 255–6.

(CPV) to ensure the Country and Liberal parties fully benefitted from preference exchanges. Indigenous men and women were enfranchised in Queensland in 1965 – the last state to do so. In 1973, the voting age was lowered from 21 to 18. After the Fitzgerald Inquiry found in 1989 that Queensland’s unfair electoral system helped shape an undesirable political culture of authoritarian leadership and a lack of accountability, a temporary Electoral and Administrative Review Committee oversaw a permanent Electoral Commission of Queensland that today serves as an electoral ‘umpire.’ Queensland returned to an OPV system and the principle of ‘one vote, one value’,<sup>58</sup> then returned to CPV in 2016. Other significant electoral reforms include strict electoral donation laws: as of 2018, all electoral donations of \$1,000 or more must be publicly declared, and property developers are banned as donors. Fixed, four-year terms now see elections scheduled for the last Saturday in October.

Conclusions: *plus ça change* – major issues in Queensland, then and now

The history and nature of Queensland politics evokes the adage *plus ça change, plus c’est la même chose* – the more things change, the more they stay the same – perhaps more than any other Australian polity. After almost two centuries of European settlement, 160 years of self-government and three decades of post-Fitzgerald reform, much has changed in Queensland. But so much more remains the same. While accountability initiatives since 1990 have wholly transformed many of the state’s Cabinet, parliamentary, public service and electoral practices, unchanging industrial and social forces suggest the state’s political culture has only partially transformed. A predilection towards populism, strong leadership, regionalism, state development and parochial state chauvinism, for example, all remain key hallmarks of Queensland politics, largely because pastoralism, agriculture and mining still dominate a state economy underpinned by a heavily decentralised population – with educational standards often below the national average – living far from the state capital. In that sense, much of Queensland politics remains the conservative politics of regional materialism and not the liberal politics of urban idealism. Despite this, a rapidly transforming southeast – home to two-thirds of the state’s population – has produced in the past 30 years a distinctive political subculture that boasts an increasingly multicultural and cosmopolitan set of values. Problematically, this development has divided the state even more profoundly along geographic, economic and cultural cleavages, with those divisions now signposting the key policy terrain of 21st-century Queensland.

Such issues include: the capacity of ‘smart’ technologies to replace Queensland’s pastoralism, agriculture and mining; the size of the public sector; the future of state-owned industries and the management of an enormous state debt; to what extent coal will complement renewable energies in Queensland’s energy mix; and whether

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58 Stevens 1993.

Queensland – or at least the southeast – should join the rest of eastern Australia in the adoption of summer daylight saving. Queensland politics and political culture are evolving creatures but, for now, Queensland remains different.

**Table 5 Queensland election results, primary vote and seat share, 1989–2017**

| Election           | Labor |       | Liberal–National* |       | Other             |       |
|--------------------|-------|-------|-------------------|-------|-------------------|-------|
|                    | Vote  | Seats | Vote              | Seats | Vote              | Seats |
| 1989               | 50.3  | 54    | 45.1              | 35    | 4.6               | 0     |
| 1992 <sup>^</sup>  | 48.7  | 54    | 44.1              | 35    | 7.2               | 0     |
| 1995 <sup>¥</sup>  | 42.9  | 45    | 49.0              | 44    | 8.1               | 0     |
| 1998               | 38.9  | 44    | 31.3              | 32    | 29.8 <sup>#</sup> | 13    |
| 2001               | 48.9  | 66    | 28.5              | 15    | 22.6              | 8     |
| 2004               | 47.0  | 63    | 35.5              | 20    | 16.5              | 6     |
| 2006               | 46.9  | 59    | 37.9              | 25    | 15.2              | 5     |
| 2009               | 42.3  | 51    | 41.6              | 34    | 16.1              | 4     |
| 2012               | 26.7  | 7     | 49.7              | 78    | 23.6 <sup>±</sup> | 4     |
| 2015               | 37.5  | 44    | 41.3              | 42    | 21.2              | 3     |
| 2017 <sup>**</sup> | 35.4  | 48    | 33.7              | 39    | 30.9              | 6     |

Source: Electoral Commission of Queensland n.d.

Notes: \* The 1989 and 1992 elections saw the stand-alone Liberal and National parties compete independently; between 1995 and 2006 the Liberal and National parties contested elections under a formal coalition; the two parties merged into a single Liberal–National Party in 2008. <sup>^</sup> 1992 was the first election conducted on fair boundaries without a zonal system. <sup>¥</sup> The 1995 election saw Labor win 45 seats to the Coalition's 44, with the Court of Disputed Returns later overturning the Mundingburra result; the subsequent 1996 re-election saw the Liberals win; the Goss government resigned in February, 1996. <sup>#</sup> One Nation's 22.7 per cent and 11 seats comprised most of the 'Other' vote in 1998; <sup>±</sup> Katter's Australian Party (11.5 per cent and two seats) comprised most of the 'Other' vote in 2012.

<sup>\*\*</sup> The 2017 election was for 93 seats.

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# South Australia

Rob Manwaring, Mark Dean and Josh Holloway

## Key terms/names

Australian Labor Party, bicameralism, Cabinet, *Constitution Act 1934* (SA), deliberative democracy, Don Dunstan, Liberal Party of South Australia, malapportionment, marginal seats, political parties, privatisation, Thomas Playford

South Australia (SA) is something of a curious paradox within Australia's federation. With a population of 1.67 million, it often remains peripheral to wider political debates in Australia. In 2018, due to lack of population growth in proportion to the rest of the country, it had its overall number of federal MPs in the House of Representatives reduced from 11 to 10, thus further diminishing its voice on the national stage. Federal elections tend not to be decided by outcomes in SA. Economically, SA has been perceived to be a 'rust-bucket' state – economically backward with a critical skills shortage, and an ageing population. According to the Australian Bureau of Statistics, it comprises just over 6 per cent of the nation's economy. In 1991, the collapse of the State Bank was a significant blow to the state's economy. It has often taken SA longer to recover from national economic downturns and usually ranks just above Tasmania in terms of many economic metrics. More recently, with the closure of the Holden car plant in 2017 – and the de facto end of car manufacturing in Australia – there remain ongoing concerns about the future and vitality of the state. There is a lingering perception that SA is, to quote a former premier of Victoria, a 'backwater'.

Manwaring, Rob, Mark Dean and Josh Holloway (2019). South Australia. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

Yet, paradoxically, these perceptions and economic realities tend to mask a more complex and rich political history. SA has a stable political system, strongly influenced by the Westminster parliamentary system. Aside from the State Bank collapse, it has lacked the scandals and corruption that have blighted other states and territories like New South Wales (NSW) and Western Australia. Its political system and workings can appear, on first glance, quite mundane. However, SA has a unique and radical history. It was established as a planned ‘free settlement’ on terms quite different to the other Australian colonies. It was, and continues to be for some, a ‘social laboratory’ with a rich history of political and social innovation.<sup>1</sup> It has pioneered legislation and political innovations, particularly throughout the 1970s.<sup>2</sup> While SA, like the rest of the nation, has been dominated by the Labor/non-Labor axis, it is the birthplace of a range of political movements and parties, including the Australian Democrats, the Family First party and, most recently, the Centre Alliance (which was the creation of key SA political figure and former state and federal MP Nick Xenophon). While an Australian prime minister has never represented a SA constituency, the state continues to influence and shape Australian political debates, especially most recently in the areas of water and energy policy. In 2018, Adelaide became the home of the new Australian Space Agency – perhaps reflecting a state that can often ‘punch above its weight’ in the federation.

#### Governing South Australia

*The Constitution Act 1934* (SA) is the foundation of SA’s political system, setting out the main framework and its core constitutional features. This is a system strongly modelled on the Westminster system of government, and clearly influenced by the colonial imprint of the UK. In 1856, SA became a self-governing colony, and the original 1856 constitution was, for its time, one of the most radical in the world. Underpinning the Westminster system is the doctrine of responsible government. This is the model of how political accountability *should* work in SA. As we highlight below, there are ongoing issues with political accountability. The doctrine of responsible government entails the executive branch (the premier and the government) being held accountable to the legislative branch, and in turn, through free and fair regular elections, to the voters of SA.

SA, like many of the other states and territories, has a bicameral system with power enshrined in two houses of parliament: the lower house (the House of Assembly) and an upper house (the Legislative Council). In the Westminster system, government is formed by the group winning a majority of seats in the lower house. The leader of the winning party becomes Premier of SA. Since 1970, the

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1 Rann 2012.

2 Parliament of South Australia n.d.



House of Assembly has 47 members, and 24 votes are required to gain a majority in the lower house. It is worth noting that the lower house in SA has far fewer MPs than the same chambers in either NSW (93 MPs) or Victoria (88 MPs), which has arguably had an impact on election results (see below). The Legislative Council has 22 members (MLCs), each serving eight-year terms, with half the upper house facing election on alternate cycles.

In the *SA Constitution Act 1934*, where there is a breakdown between the two houses, section 41 of the Act provides for a 'deadlock' provision. In effect, if a government Bill is consistently blocked then it can trigger the government to seek permission to dissolve the parliament and cause new elections. From time to time, there have been calls to abolish the upper house in SA, and in 2015 then Labor Premier Mike Rann backed away from holding a referendum on the issue. There appears, however, to be limited appetite for a unicameral system, such as in Queensland.

While the SA political system is broadly grouped within the Westminster tradition across Australia, there are some distinct features, not least the issue of electoral boundaries and boundary redistribution. SA has had a long history of 'malapportionment' or what was termed the 'Playmander' – with highly disproportionate electorate sizes.<sup>3</sup> Election apportionment is the idea that each electoral district, division or constituency should have broadly the same number of voters. This is a key principle that underpins liberal democracy – the idea of 'one vote, one value'. Electoral malapportionment occurs when electorate sizes vary for geographic, demographic, or political reasons. The effect of the Playmander in SA was to give substantial and disproportionate voice to rural constituencies, violating the principle of 'one vote, one value'. It should be noted that malapportionment is not the same as 'gerrymandering', which in the latter case is a systematic attempt to manipulate the electoral boundaries for partisan advantage. While the Playmander ended in the 1970s, the issue of electoral boundaries remains contentious in SA politics for several reasons. First, SA has a very distinct geography with a highly concentrated population with most people living in or near Adelaide or the other major urban centres (approximately 75 per cent of a total state population of 1.67 million). This means that most elections are decided by marginal seats in metropolitan or outer suburban areas.

Second, and relatedly, there tends to be a rough distinction between where the voters and supporters of the major parties reside. An issue for the Liberal Party, especially during the Rann/Weatherill years, was that its voters were concentrated in rural areas, which had the effect of concentrating the liberal vote in 'safe' seats. The upshot is that, on a number of occasions, they 'won' the popular vote but did not secure the most seats. The Liberals 'won' the two-party preferred vote at the 2002, 2010 and 2014 elections but did not win office.

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3 Orr and Levy 2009. The term 'Playmander' is derived from Thomas Playford (SA premier 1938–65, and leader of the Liberal and Country League) and gerrymander.

Third, and unique to SA, one reason electoral boundaries proved to be so problematic was the so-called fairness provision in the *Constitution Act 1934*, overseen by SA's Electoral Division Boundaries Commission. This clause was introduced by Labor in 1991, and was supported by the Liberals. The aim was to ensure that after each election the electoral boundaries must be redrawn to ensure that the winning party or grouping that secured 50 per cent of the two-party preferred vote should be able to be 'elected in sufficient numbers to enable a government to be formed'.<sup>4</sup> Clearly, given the election results during the 2000s this pursuit of 'fairness' proved elusive. The key impact is that marginal seats play a particularly critical role in determining SA election results, and ultimately the type of government that is formed. In one of the final acts of the 2014–18 parliament, the Greens introduced a Bill to remove the 'fairness provision' from the *Constitution Act 1934*, and with the support of Labor and others the Bill was passed in December 2017.<sup>5</sup>

#### The political history of South Australia

Political stability is one of the defining features of SA political history in the 20th and 21st centuries. By as early as 1905, a Labor versus non-Labor two-party contest came to dominate the state's politics, mirroring the dynamics emerging at the national level. Since the 1930s, SA voters have also been prepared to return incumbent governments at successive elections, creating a series of distinct eras of political leadership – several of which we explore below. What these periods of alternating long-term Liberal and Labor government hide, however, are considerable shifts in voting patterns (including for the House of Assembly) and the significant influence of electoral systems. Further, focusing on the Labor versus Liberal contest alone obscures the enduring impact of independent members of parliament, the presence of which has contributed to several minority governments. More recently, as well, minor parties have expanded their influence in the Legislative Council – the powerful upper house of parliament.<sup>6</sup>

#### *The Playford era (1938–65)*

As Figure 1 displays, SA began the postwar period during the Playford era. Sir Thomas Playford was the longest-serving premier in SA history, leading the Liberal Country League (LCL) government from 1938 to 1965 and steering his party through eight election wins. The Playford era is most notable for its 'forced industrialisation' of the SA economy. The Playford governments frequently intervened in markets, established publicly owned utilities and housing, and led a

4 Lynch 2016, 7.

5 Church 2018.

6 Jaensch 2011; Jaensch 1977; Jaensch 1976.

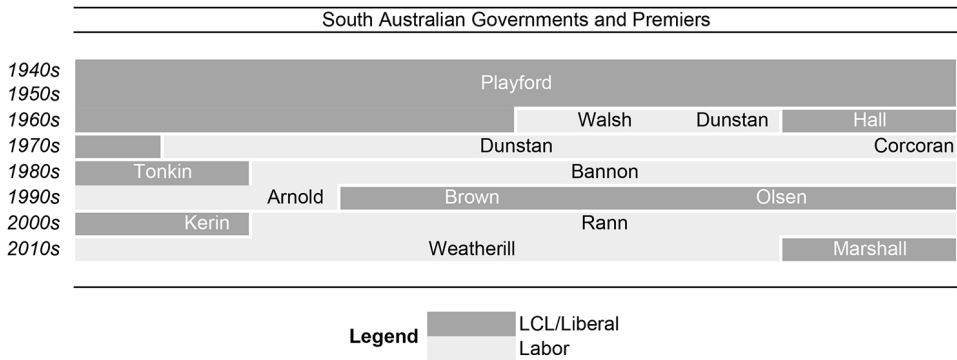


Figure 1 South Australian governments and premiers by party.

transformation of the state's economy from a rural-agricultural to a predominantly industrial base. Nonetheless, public spending on health and education was often lower than in other states, while the paternalism and conservatism of Playford's LCL meant that SA also significantly lagged behind in social and cultural policy reform.

Industrial expansion and economic growth underpinned both the LCL's and Playford's personal electoral popularity. But they also contributed to Playford's eventual demise, as economic transformation fostered a changed political geography, with population moving from rural areas and concentrating in the metropolitan region. Indeed, if not for the peculiarities of SA's electoral system (the way we count votes and translate them into parliamentary seats) at the time, the Playford era likely would have been much shorter.<sup>7</sup> Figure 2 shows the share of the first preference votes of the LCL/Liberal and Labor in House of Assembly elections from 1944 to 2018. For much of the Playford era, the Labor Party secured more popular support. Indeed, in 1944, 1953 and 1962 this led to the Labor Party winning the estimated two-party preferred vote but nonetheless losing the election. This was a product of severe electoral malapportionment, nicknamed the 'Playmander' – something we have already explored earlier in the chapter. It was not until the 1970s that SA had a genuinely 'democratic' electoral system founded upon a 'one vote, one value' principle and a level playing field for parties.

#### *The Dunstan decade (1970–79)*

Though not the first Labor government of the postwar era, the Dunstan decade of 1970–79 nevertheless represents the clearest break with the long dominance of the LCL through the mid-20th century. Don Dunstan's governments represented a highly activist brand of social democracy, and a new type of Labor government – 'electorally

<sup>7</sup> Jaensch 1977, see chapter 3.

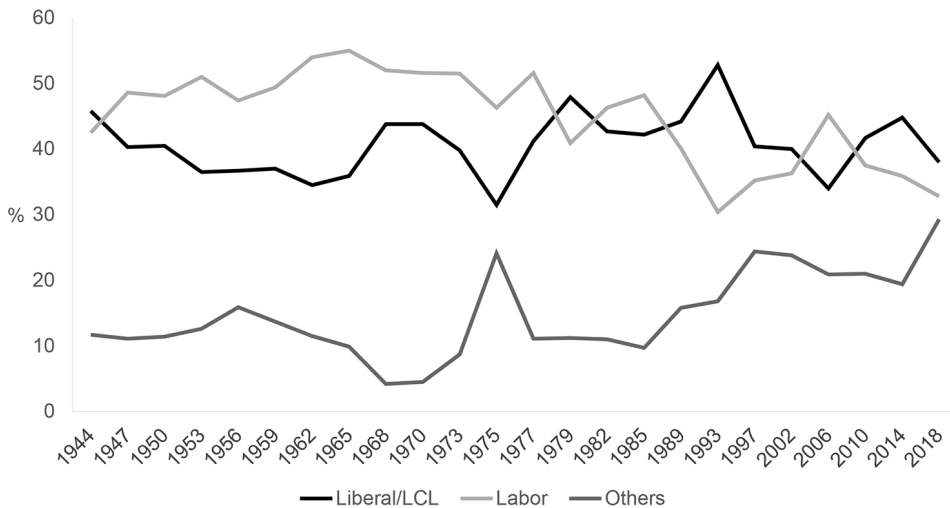


Figure 2 Party shares of the first preference vote in the House of Assembly.

Note: the spike in the vote of 'others' in 1975 is due to a split in the Liberal Party.

successful, effectively reformist, and unashamedly appealing to middle-class voters.<sup>8</sup> Dunstan brought about a technocratic shift for Labor, elevating the role of technical expertise and evidence in policy making, but later also increased public participation in some aspects of decision making. The social reforms (e.g. Aboriginal land rights, decriminalisation of homosexuality, first female judge appointed) and expansions to individual liberty (e.g. easing censorship, reforming liquor licensing, establishing a nude beach) were, in many cases, nationally significant, and in some cases world firsts.<sup>9</sup> The Dunstan government, however, occasionally struggled with the challenges of economic management, albeit in the context of a narrow economic base in the state and worsening global economic conditions.

#### *The Bannon decade (1982–92)*

As Figures 1 and 2 show, the Labor Party quickly bounced back from the loss of government in 1979, returning to power just three years later. But Premier John Bannon was a Labor leader substantially different to Dunstan. Where Dunstan was charismatic, ostentatious and a zealous reformer, Bannon was cautious, mainstream, and sought incremental change. Where social and cultural transformations were the aim of Dunstan's Cabinets, Bannon's governments focused more on careful economic management.<sup>10</sup> Labor under Bannon recorded considerable successes,

<sup>8</sup> Parkin and Jaensch 1986, 100.

<sup>9</sup> Macintyre 2005; Manwaring 2016.

<sup>10</sup> Parkin and Patience 1992.

seeing the opening of the Olympic Dam mining project, expansion of the defence industry, development of the public transportation system, greater environmental protection, and reforms in the school and criminal justice systems. But the collapse of the government-owned State Bank, one of the largest economic crises in SA's history, brought about the end of Bannon's premiership and, soon after, a decade in opposition for the Labor Party. Interpretations differ on Bannon's record in office.<sup>11</sup> Critics see a decade of missed opportunities (especially in contrast to Dunstan's record), while others laud modest reform in much more economically constrained times.

*The Brown/Olsen/Kerin governments (1993–2002)*

The Brown/Olsen/Kerin era is the sole period of prolonged Liberal Party government since Playford (the Tonkin Liberal government of 1979–82 lasting just a single parliamentary term). In 1993 Dean Brown led the Liberal Party to a landslide victory in an election that saw the peak of the Liberal Party's electoral support in the postwar period (see Figure 1). The Brown government, however, was beset by factional infighting, slowing the pace of policy reform. This infighting was a continuation of party leadership rivalries between Dean Brown and John Olsen, who represented, respectively, the moderate and conservative groupings within the SA Liberals.<sup>12</sup> By 1996, opinion poll figures of Liberal and Labor support had narrowed, prompting two Liberal backbenchers to shift their support for party leadership from Brown to Olsen, allowing Olsen to successfully challenge for party leadership.

Under Olsen's leadership, the Liberals narrowly won the 1997 election, forming minority government with the support of independents. The Olsen government successfully broadened SA's economic base, initiated major sporting events (e.g. the Tour Down Under), and further developed the tourism industry. The Olsen government was also marked by several policy controversies, notably the privatisation of electricity assets (Electricity Trust of South Australia, ETSA) and the mass outsourcing of government services. The privatisation of ETSA caused increases in the price of electricity, reducing further Olsen's electoral popularity. Ultimately, however, it was the 'Motorola affair' (Olsen's attempt to lure the technology company to the state with subsidies and preferential treatment) and Olsen's subsequent misleading of parliament that led to his downfall, being replaced as party leader and (until the 2002 election) premier by Rob Kerin.

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11 See concluding chapters in Parkin and Patience 1992 for different views on Bannon's record in office.

12 As such, Brown versus Olsen leadership struggles can be seen as stemming from unresolved factional divides since at least the 1960s.

*The Rann/Weatherill era (2002–18)*

Mike Rann emerged as leader of the Labor Party following its landslide election loss in 1993, where Labor's primary vote was reduced to just 30.4 per cent (see Figure 2). However, Rann benefitted from a Liberal Party in disarray, and after just two terms in opposition, led Labor to victory in 2002, forming a minority government. Through much of the Rann era, SA experienced sustained economic expansion and relatively low unemployment, helping Labor rebuild its economic credibility after the crises of the later Bannon years. Substantial inequality and economic disadvantage remained, however, and Rann often clashed with local trade unions. Nonetheless, the Rann era saw considerable achievements, including increased funding for health and education, the growth of the mining and defence industries, considerable infrastructure and tourism site development, and innovations in participatory democracy and governance.<sup>13</sup> Some view the Rann era as a variant of the emerging 'third way' politics in the renewal of social democracy.<sup>14</sup>

As popular opinion began to shift against Rann, leading union and Labor Party figures moved to replace him. Public fatigue with a third-term government, coupled with the effects of the Global Financial Crisis placed greater constraints on Rann's government. Rann, knowing he lacked the numbers to withstand any leadership challenge, stood down in October 2011, with Jay Weatherill elected unopposed by the party as his successor. Weatherill faced considerable economic challenges in his first term, including the closing of prominent manufacturing sites and aborted plans for mining projects. Early budgets made large cuts to spending and privatised public assets and services. Yet, following a surprise win in the 2014 election, Labor's agenda under Weatherill substantively changed. Weatherill led significant social reform (e.g. removing discriminatory laws against the LGBTIQ+ community), and demonstrated a capacity for policy innovation in economic management. Perhaps most notable is Weatherill's proposed reform of the electricity sector, arguing for the construction of a government-owned gas-fired power station alongside the expansion of renewable energy and grid-connected battery storage.

The influence of independents and minor parties

Examining governments only provides us with part of the story of SA politics. Independent MPs have long been a fixture of the SA parliament, usually elected to the House of Assembly, and often representing rural, regional and outer suburban electorates. In many cases, independent MPs were often elected as members of one of the major parties (or were members of major parties denied preselection). The most significant impact of these independents has been in the process of government formation. Elections in SA regularly produce 'hung parliaments' where

<sup>13</sup> Spoehr 2009; Spoehr 2005.

<sup>14</sup> Macintyre 2005.

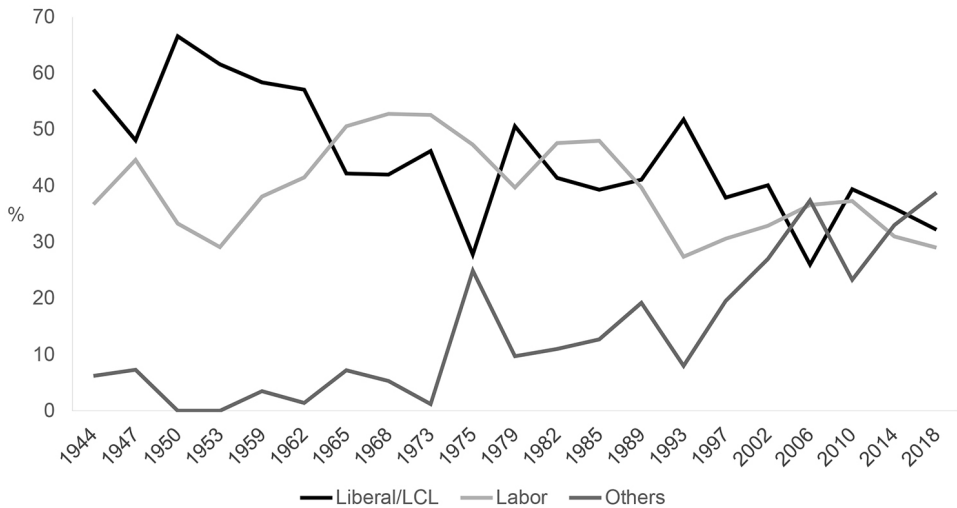


Figure 3 Party first preference votes for the Legislative Council.

Note: the rise in the vote of 'others' in 1975 is due to a split in the Liberal Party.

neither major party commands the majority of lower house seats needed to form a government. In these instances, independents and parties on the crossbench hold considerable sway over which party can form government. Since 1944, independents have played this role seven times, following elections in 1962, 1968, 1975, 1989, 1997, 2002, and 2014.

Minor parties have more often derived influence from their position in the Legislative Council. Until the mid-1970s, the LCL/Liberal Party dominated the Legislative Council due to restrictive voting rights that favoured the wealthy establishment and property owners. Following Dunstan's electoral reforms introducing universal suffrage and a proportional electoral system, Labor and minor parties alike have secured greater representation in the upper house. For minor parties, as well, electoral reform contributed to a growth in their support. Figure 3 graphs the change in electoral trends.

Since 1975, the proportional electoral system has meant that minor parties have secured sufficient seats to play a decisive role in the Legislative Council. Minor parties have consistently occupied a balance of power role, meaning they can side with either the government or the opposition of the day (should they be at odds), and determine the fate of legislation. Thus, while these minor parties tend not to affect the *formation* of governments, they influence the *function* of governments. Since 1997, as well, this balance of power role has been shared among multiple minor parties, as depicted in Figure 4. This means that governments face a complex bargaining environment, needing to negotiate with and manage the interests of diverse, rival parties.

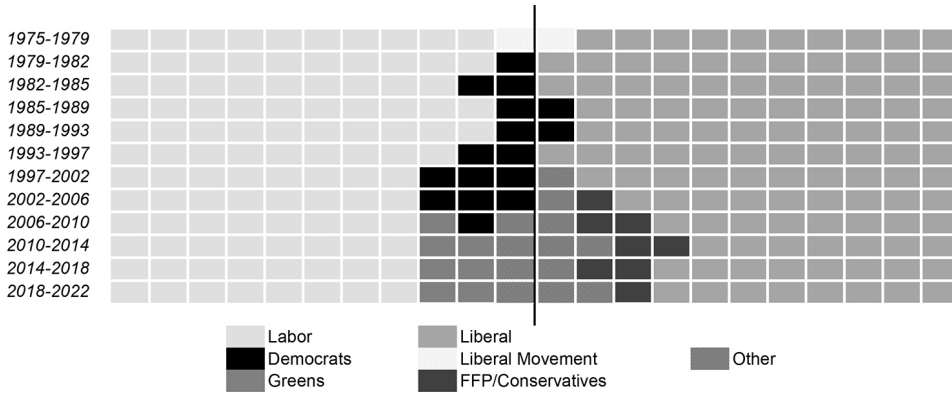


Figure 4 Balance of seats in the Legislative Council.

#### Key South Australian institutions and social actors

We group SA's key institutions and actors into three main traditional types: governmental/public, private and 'third sector' (or non-governmental). The distinctiveness of SA's institutional ecology is strongly shaped by its political history. The different political eras, as sketched out above, have been fundamental in shaping SA's development. In its early years, the political system was infused with a radicalism and democratic innovation.<sup>15</sup> Given the historic economic challenges facing SA, a key focus of government (and the creation of related public institutions) has been active involvement in the economy. Though it has been a contested approach, the growth of SA's economy has in major periods reflected the institutionalisation of government's key role in development.<sup>16</sup> Beyond the immediate political institutions of Cabinet government, and the parliament, there has been an increase in reach and influence of statutory agencies and other public institutions.

A key moment in SA's modern social transformation is observable in the institutional developments of the Labor Party during the 1970s under the leadership of Premier Don Dunstan. Through the creation of a number of statutory authorities, SA's arts and tourism industries were institutionalised in an attempt to diversify the economy and make it more resilient to the emerging dynamics of globalisation. The Dunstan government's statutory institutionalisation of new pathways for employment in these areas also served to develop a social, cultural and economic expression of the state's experimental and progressive nature. In latter periods, for example under Premier Mike Rann, his government was underpinned by a number of key government boards and committees. A striking example was the Economic Development Board (created in 2002), which for a time had

<sup>15</sup> Payton 2016.

<sup>16</sup> See Stutchbury 1986 and Wanna 1986.



significant political influence, alongside the also powerful Social Inclusion Board.<sup>17</sup> More broadly, we can see a growth of the 'regulatory state', with public goods overseen by quasi-independent agencies and boards.

The private sector remains a critical actor in the development of the state, and it is institutionalised through key actors. Pre-eminent among them is the SA Chamber of Commerce and Industry. Trading today as Business SA, this institution represents the interests of businesses in the state, chiefly in terms of managing industrial relations with employees and lobbying for institutional changes favourable to business, such as the removal or changing of regulation. At times it has played a significant political role, developing policy positions, commenting on state budgets, but also running campaigns – most notably leading the charge against a new proposed State Bank levy in 2017.

A third set of institutions are those often categorised as 'third sector' or non-governmental organisations (NGOs). SA, like many other parts of Australia, has a vibrant set of institutions that emerge from and seek to represent part of civil society. An important social institution is that made up of the array of organisations that fall within the SA labour movement. In 1876, SA was the first place in the British Empire to legalise trade unions, and they remain key actors in the SA political system. Today, SA Unions is the peak body of the union movement in the state. The key powerful trade unions remain affiliates of the state Labor Party. Outside of the union movement, one of the most prominent social actors is the SA Council of Social Services which is an umbrella organisation for a suite of community sector NGOs and bodies. In common with other parts of Australia, increasingly social services are often contracted out to large-scale third party providers.

How do we best understand the political power and influence of these institutions across the public, private and voluntary/community sectors in SA? This remains a contested set of debates that has preoccupied political scientists for some time. Dye suggests that different 'models' of politics might help us understand power in different ways.<sup>18</sup> Arguably, the most common account applied in Australia would be through the prism of pluralism. This model suggests that power is dispersed among different groups, and that government policy is often the result of trade-offs between, say, employer and employee groups. Other models, for example class-based approaches, suggest that, in a capitalist market economy, business groups have a built-in (structural) advantage and yield more influence, certainly more than trade unions. Other models note how, at times, different interests (e.g. business and labour) are institutionalised – in what is sometimes called a corporatist model. In the Rann era when representatives from the Economic Development Board and the

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17 Manning 2005. Under the Marshall government, the Economic Development Board was folded into a new, smaller Economic Development Agency.

18 Dye 2013.

Social Inclusion Commissioner were part of the Executive Committee of Cabinet, this seemed like a clear effort to build a form of corporatism.

#### Key controversies in South Australia

##### *Democracy and accountability*

David Beetham argues that democracy is underpinned by two key principles: political equality and popular control.<sup>19</sup> Political equality entails that all groups of people have a voice within a given democratic system. Popular control means that, following Lincoln's famous declaration, government should be 'of the people, by the people, for the people'. Beetham and colleagues have often undertaken democratic 'audits' to see how well a country or polity is faring in this regard. To date, there has never been such an audit of state-level democracy in Australia (although there has been a national one).<sup>20</sup> The health of SA democracy remains in question in at least three key areas: deliberation, accountability and governance.

In recent years, there has been a focus on 'deliberative' democracy.<sup>21</sup> The main claim made here is that voters should have more influence in between elections, and the quality of government decisions can be enhanced by better deliberation or discussion. Labor Premier Jay Weatherill was a noted fan of this movement and instigated a range of 'new' deliberative techniques, including citizens' juries. The effect of this has been mixed, with particular criticism directed at the citizens' jury on the nuclear fuel cycle. Yet, it showed a rare willingness to enhance SA's democratic institutions.

A second area of concern has been the issue of accountability – especially the mechanisms for holding the government to account. In the Cabinet system of government in the Westminster tradition the doctrine of ministerial responsibility is critical.<sup>22</sup> This has two dimensions: collective and individual. In the case of the latter, the convention is that ministers are responsible for the workings of their departments, and, when things go wrong, they should resign (or more commonly be dropped or reshuffled). A number of scandals in SA, notably the Oakden abuse scandal, have drawn repeated attention to the growing ineffectiveness of individual ministerial responsibility.<sup>23</sup>

A third area of concern, and not limited to SA, is the fragmenting nature of governance. Traditionally, the government and public sector (especially the main

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19 Beetham 1994.

20 Sawyer, Abjorensen and Larkin 2009.

21 Dryzek 2002.

22 Thompson and Tillotsen 1999.

23 The Oakden nursing home was a state-run mental health centre for older people, which was eventually shut down in 2017 after allegations of abuse and neglect of residents. The Oakden scandal was one of the drivers for the federal government to begin a royal commission into aged care quality and safety in 2018.

departments, e.g. education, health) were the main political and policy actors. The shift from government to governance, however, entails a growth of statutory boards, commissions and councils (and the like) to deliver and oversee the outsourcing of public goods. Yet, there remains a concern about the effectiveness of these boards, their accountability and their relation to democratic institutions. For example, a number of scandals in health and the TAFE sector raise concerns about 'arms-length' institutions and their role.

#### *Energy and nuclear power*

Recent economic developments in SA have focused on debate around securing the state's economic and energy futures as the pressing need to respond to climate change heightens. Following an extreme weather event in October 2016 that left the entire state in blackout for hours, the Weatherill Labor government developed an energy industry policy to ensure energy supply to homes and businesses would be safeguarded in the event of future breakdowns in the existing energy grid. Through public-private partnerships with international energy companies Tesla and Neoen, the government has developed renewable energy infrastructure, further increasing SA's national leadership on renewables and energy innovation. The initiatives under Premier Mike Rann institutionalised a nation-leading renewable energy policy and objective to increase renewable energy as a major source of supply. As at 2018, approximately 50 per cent of the state's energy comes from renewable sources.

Recently governments have sought to enact watershed changes to SA's economic trajectory through attempts to undertake large reforms. Prior to the Labor government's loss to the Liberal Party in 2018, then-Premier Weatherill had sought to explore options to establish a secure dumping site for nuclear waste in SA. The sequence of events relating to this highly contentious issue exemplified the responsible government principles and processes at the core of the state's democratic institutions. There was a two-year royal commission inquiry into SA's participation in the nuclear fuel cycle and subsequent public consultation through a citizens' jury. The final commission report handed down a decision in 2016 not to support nuclear waste dumping.

#### *Privatisation and state ownership*

Privatisation refers to policies ranging from outsourcing of government services to the absolute sale of public assets. Privatisation in Australia, and SA in particular, has a poor record, with questionable economic benefit and considerable social cost.<sup>24</sup> As governments began the process of privatisation in the 1980s, many voters responded with a relatively open mind. After all, there were inefficiencies and poor quality of service provided through some government-owned operations.

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24 Cahill and Toner 2018.

Several decades on, public opinion tends towards scepticism of privatisation, with asset sales and outsourcing electorally risky. In particular, many voters appear unconvinced that privatisation leads to lower costs for consumers, and are cynical about governments' underlying rationale. Indeed, there are often different motivations underpinning calls for privatisation. Aulich and O'Flynn distinguish, for instance, between *pragmatic* privatisation where public assets are divested in a drive for greater efficiency and a means of technical problem solving, and *systemic* privatisation which derives from an ideological commitment to reducing the role and size of government.<sup>25</sup> Privatisations under both Liberal and Labor governments have been propelled by both of these motivations at different times.

Despite the potential electoral costs, successive governments have pushed forward with asset sales and outsourcing. Most recently, the Weatherill Labor government privatised the Land Titles Office, the Motor Accident Commission, SA Lotteries, and forestry services. Further, the Marshall government in 2018 flagged the possibility of privatising some health and criminal justice services, while the Labor opposition claims the Liberals also have SA Water in their sights. The most controversial instance of privatisation in the SA setting, however, is the sale of the Electricity Trust of South Australia (ETSA) in 1999. Arguably, this is the source of the contentious energy politics outlined above. Interestingly, it was the conservative Playford government that first established ETSA by nationalising privately owned electricity assets in 1946. Fifty-three years later, it was Olsen's Liberal government that broke up and sold the state-owned electricity suppliers, despite previous assurances to voters that such a sale would not occur. The ETSA privatisation would not have gone forward, however, without the critical support of two Labor members of the Legislative Council 'crossing the floor' to support the sale.

## Conclusions

SA remains at a political and economic crossroads. After 16 years of Labor, Steven Marshall led the Liberals to government at the 2018 election. Marshall's government faces a range of political and policy dilemmas, including in the crucial areas of health, the TAFE sector, and the wider economic environment. There remain concerns that this populously small but geographically large state could be heading back to how it has often been traditionally viewed – as an economic 'backwater'. The Marshall government is seeking to counter Labor's more interventionist agenda, by focusing on creating a smaller state, scaling back public spending, and focusing on private-sector entrepreneurship. The Liberals have long been out of practice at governing in SA, and only one of the current Cabinet – Treasurer Rob Lucas – has served in government before. Strikingly, Marshall's government has sought to

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25 Aulich and O'Flynn 2007.

innovate in its own way. Critically the Liberals are seeking to return to Cabinet government and diffusing power across the Cabinet, rather than relying on a strong leader and a small number of trusted lieutenants.

There are a wide range of concerns about the health of SA's democracy, its governance, and its key assets. The Marshall government will need to build a new agenda, with widespread popular appeal, if it is to survive in what has until recently been a state dominated by Labor.

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# Tasmania

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## Key terms/names

accord, blockade, franchise, Hare-Clark, 'Howard battlers', House of Assembly, hung parliament, hydro-industrialisation, Legislative Council, *lutruwita*, minority government, palawa, quota

Although Tasmania is a natural Labor state, there are increasing institutional and political challenges to traditional Labor dominance. Tasmania's politics are profoundly affected by a sense of economic fragility and the consequent influence of large industries. The state has been both a national and global focus for environmental politics and originated the world's first green political party. Tasmania's voting system is unique, as are the electoral arrangements for both of its state houses of parliament. As part of the Australian federation, it is represented by 12 senators – the same number as other states.

Since European settlement, Tasmania has had an export economy relying heavily on a few key industries for income and employment – agriculture, fishing, mining, forestry and mineral processing, and, more recently, tourism and education. Due to its small scale, narrow industrial base and limited per capita income, Tasmania relies on federal revenue transfers to fund essential public services and infrastructure.

Historically, Tasmania's underperforming economy was a central issue. The resulting push for development of the state's resources to create jobs has led to

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many environmental clashes over hydro dams, logging of native forests and, more recently, concerns about the location and scale of tourism developments.

#### Political history

Tasmania's political history has been shaped by its geography and is defined by six broad eras: Aboriginal settlement; European exploration and convict settlement at the time of the early Industrial Revolution; the end of convict transportation followed by self-government during the mid-19th century; Federation and statehood followed by hydro-industrialisation for much of the 20th century; the rise of the Green movement and the decline of manufacturing from the 1970s; and the rise of tourism and the services sector from the 1990s.

Tasmania, known as *lutruwita*<sup>1</sup> by its Indigenous inhabitants, the palawa people, was first settled between 30,000 and 40,000 years ago, when there was a land connection with the Australian mainland due to lower sea levels during the last ice age. Subsequently isolated by rising sea levels, there were nine tribes spread throughout the area. However, immediately before European settlement, the palawa population was estimated at less than 15,000.

Located to the south-east of the Australian continent, Tasmania became a way-point for European explorers of the Pacific, who followed the prevailing westerly winds from the Cape of Good Hope in Africa. Early explorers included Abel Tasman, who landed in 1642 and named the area Van Diemen's Land. Marion DuFresne (1772), Tobias Furneaux (1773), James Cook (1777) and William Bligh (1788 and 1792) all visited around this time, as did several other French and British explorers.

The first European settlement on the Derwent River, near present-day Hobart, in 1803 was based partly on fear of French ambition, especially as George Bass and Matthew Flinders had shown in 1798 that Van Diemen's Land was separate from the mainland and therefore might be distinct from the British claim to New South Wales (NSW).<sup>2</sup> Tasmania's usefulness as a jail for convicts and political prisoners was also important as it was realised that, as an archipelago of remote islands, escape was almost impossible.<sup>3</sup>

The Bass Strait islands were used by sealers from the late 18th century, and intermarriage between Aboriginal women and European sealers was common. However, a clash between the palawa and the first European settlers near modern-day Hobart led to a massacre and continuing intercultural violence, when a large

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1 The written form of the Tasmanian Aboriginal language, *palawa kani*, has only lower case letters following a decision by the Tasmanian Aboriginal Centre to discontinue capitals (Harman 2018).

2 Clements 2014.

3 Although, in 1834, ten audacious convicts managed to build a boat, commandeer it and sail to Chile (Courtenay 2018).



hunting party of palawa were fired upon by frightened troops. Later, the 'Black War' (1824–31), the 'most intense frontier conflict in Australia's history', led to the near decline of the palawa and their culture. About 1,000 Aboriginal people and 200 settlers were killed during the conflict.<sup>4</sup> By 1830, there were 24,000 settlers, but only about 250 Aboriginal people remained alive.<sup>5</sup>

The independent settlement of northern Van Diemen's Land was established on the Tamar River in 1804 at Launceston, which has since tended to look northward more than the southern capital. In fact, its establishment led to the founding of Melbourne in 1835 by the entrepreneur John Batman, whose party sailed across Bass Strait in the Hobart-built schooner *Enterprize*.

The fragility of the isolated southern colony was made stark in 1809, when Governor Bligh from Sydney and Lieutenant-Governor Collins from Hobart Town met after Bligh had been deposed by the Rum Rebellion and subsequently released. Bligh sailed for Hobart Town, where Collins refused to help him re-take the post of governor of NSW. Their relationship further soured when Bligh had one of Collins' sons, a crewman on his ship, flogged for insubordination.<sup>6</sup> During Bligh's subsequent vengeful blockade of the Derwent aboard his 12-gun<sup>7</sup> HMS *Porpoise*, all ships entering the river were 'taxed' some of their cargo, which contributed to the fledgling colony's economic woes. After several months, Bligh eventually returned to Sydney upon hearing that a new governor, Lachlan Macquarie, had been appointed from England.

The Van Diemen's Land economy grew based on fertile plains between Hobart and Launceston suitable for sheep and cropping, at a time when Sydney settlers had not established farms beyond the Blue Mountains.<sup>8</sup> Shipbuilding, timber and especially whaling were flourishing industries throughout the 1800s, and much timber and whale oil were exported.

An 1823 Act of the British parliament separated Van Diemen's Land from NSW, and the Legislative Council was established in 1825 to advise the lieutenant-governor. It consisted of six members chosen by him, expanding to 15 members in 1828. By 1851, it had 24 members, 16 of whom were elected. Consistent with similar jurisdictions, only men over 30 who owned a certain amount of property were eligible to vote.

The colony's value as a remote jail faded as the local economy developed. Up until transportation ceased in 1853, nearly half of all convicts throughout the Australian colonies had been sent to Van Diemen's Land, which was increasingly resented by the resident populace.<sup>9</sup> The end of transportation followed the formation of an Anti-Transportation League, supported by all elected members of the

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4 Kippen 2014.

5 Clements 2014.

6 Clark 2012.

7 Winfield 2008.

8 Europeans did not find a route across the Blue Mountains, west of Sydney, until 1813.

9 Boyce 2008.

Legislative Council. Many former convicts found their way to Victoria, lured by the gold rush of the 1850s, as labour was in strong demand. This brought about depopulation and economic stagnation in the southernmost settlements.

The global depression of the 1890s affected Tasmania's export-based economy significantly, and there was considerable support for combining in a federation with other colonies and the promise of greater interstate trade that would follow. In the first referendum of 1898, Tasmanians voted overwhelmingly in favour of Federation, with a more than 81 per cent voting 'yes'. At the second (1899) referendum, the 'yes' vote was even higher, with nearly 95 per cent in favour. Both 'yes' votes were the highest of any jurisdiction, considerably higher than NSW, where fear of a loss of influence saw 'yes' votes of 52 and 57 per cent respectively.<sup>10</sup> Clearly, Tasmanians thought that they would benefit from closer economic relations with the wealthier mainland states.

During the 20th century, Tasmania was much affected by global convulsions and electoral volatility increased, although the Labor Party was dominant for most of the period.<sup>11</sup> From a population of just over 200,000 people, Tasmania sent more than 15,000 to the First World War. Nearly 2,900 died and about double that number returned wounded, many having been gassed. There were fewer casualties in the Second World War, but still about 4,000 in total.<sup>12</sup> The state's key economic transformation, hydro-industrialisation, enabled electricity generation based on central highland dams. Said to be inspired by later Premier Walter Lee's visit to the pre-war German Ruhr Valley, where the economy was booming, the Tasmanian Hydro-Electric Department (later Commission or HEC) was created from private companies in 1914 and continued building dams until the 1980s. Industries attracted to the state as a result included paper, chocolate, zinc and aluminium production, as well as wool and carpet mills throughout the state.

However, the HEC's decision to flood the iconic Lake Pedder in the south-west so horrified a growing number of conservation-minded people that it led to the creation of the world's first green political party in 1972 – the United Tasmania Group, later the Tasmanian Greens and subsequently the Australian Greens. Lake Pedder was flooded, but another attempt to dam the Franklin River in the early 1980s led to global protests, a blockade and the intervention of the federal government, backed by the High Court, to prevent the dam being constructed.

The Franklin River dispute marked the end of the hydro-based industrialisation strategy and confirmed the importance of tourism-related industries to the state as large-scale manufacturing employment continued to decline. A legacy of the dam-building period is that Tasmania has Australia's highest level of renewable energy production, at 93 per cent, and is poised to export more renewable electricity to

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10 Australian Electoral Commission 2011.

11 The Labor Party governed Tasmania for 45 of the 48 years between 1934 and 1982, for example, longer than in any other state.

12 Watson 2015.

mainland Australia.<sup>13</sup> During the 1990s, tourism marketing and air and sea access were improved, leading to a strong increase in visitor numbers, making tourism and hospitality a driver of economic growth. Tourism, along with Tasmania's growing 'clean and green' natural produce, has also led to strong growth in the food and beverage industries, both for local consumption and export. Chinese President Xi Jinping's 2014 visit boosted Tasmania's appeal in Asian export markets for agricultural products and as a tourism destination for his compatriots. By 2017, tourism accounted for 10.4 per cent of Tasmania's economic output and 15.8 per cent of its total employment – compared with national averages of 6.3 per cent and 7.7 per cent respectively.<sup>14</sup>

Politically, the rise of the Greens on the left of the Labor Party changed the complexion of representative politics in Tasmania as well as nationally.

#### Key institutions and actors

Tasmania's political practice has several distinctive features, which have evolved over time, contributing to a unique political culture. The relationship between electoral systems and the success of political parties has been long studied, and Tasmania is an interesting case study in this regard.<sup>15</sup> Tasmania (like the Australian Capital Territory) is unusual in using a proportional electoral system to elect its lower house, having five electorates each of five seats for a House of Assembly (lower house) of 25 members. The Legislative Council (upper house) consists of 15 single-member electorates. The multi-member lower house and single-member upper house is the inverse of all other state electoral systems.

The 'Hare-Clark' electoral system, used in Tasmania since 1909, allows independents and minor parties to more easily secure representation in the House of Assembly. In the 34 elections since it was introduced, independents or minor parties have won seats in all but nine. In two of the nine elections where no independent was elected, Labor and the Liberal Party each won 15 seats. Since 1989, when five Greens were elected to the House of Assembly, Tasmania has had three 'hung' parliaments, which resulted in minority governments. It is fair to say that all Tasmanian elections are close, and there has been a long-running argument about the prospects and benefits – or otherwise – of majority government.

By-elections are rare and casual vacancies are filled by recounting the votes of the retiring member in that division from the preceding election. While all other states and territories have fixed four-year terms for their house of government, Tasmania alone has a maximum four-year term.

<sup>13</sup> Climate Council of Australia 2014, 31–2.

<sup>14</sup> Eslake 2018.

<sup>15</sup> See, for example, Bennett and Lundie 2007 on the effects of Hare-Clark in Tasmania.

The number of members in the House of Assembly has changed over time. The House had at least 30 members from its origins in 1856 until 1998, when it was reduced from 35 to 25, as shown in Figure 1. This arose as a productivity offset to justify a controversial 40 per cent pay rise for MPs as a reaction to union and public pressure at a time of austere state budgets and restrictions on public sector pay rises. But it especially suited the two major parties, which saw it as a chance to make it harder for the Greens by lifting the quota required to win a seat from 12.5 per cent (one eighth) to 16.7 per cent (one sixth). A quota under Hare-Clark is the total number of votes divided by the total number of seats per electorate plus one, plus one vote.<sup>16</sup>

The nearly 200-year-old upper house – the Legislative Council – was reconstituted as part of the bicameral parliament in 1856. Along with the House of Assembly, its size was reduced in 1998 – from 19 down to 15 seats, based on single-member electorates. It is reputedly one of the most powerful upper houses under the Westminster model of government due to its power to reject money Bills (budgets) and thus send the lower house to an election. The government has no power to dissolve the upper house. Further, elections for its single-member electorates are staggered. Members are elected for six-year terms with elections alternating between three divisions in one year and two divisions the next year. This quirky electoral system means that, unlike other state upper houses and the federal Senate, the Legislative Council never has to face either a full or half-house general election. Further, it is the only parliamentary chamber in Australia in which, historically, most of its members have been independents and therefore not subject to party control. While most of these independents are politically quite conservative, their autonomous scrutiny of government proposals arguably has value. In recent years, both the Liberal and Labor parties have experienced electoral success in the upper house, but independents still outnumber both parties.

#### Beyond the two-party system

Tasmania's Hare-Clark electoral system has allowed emerging social movements to secure parliamentary representation. As a result, significant trends in national party politics, including the rise of the Greens, and growing support for the Liberal Party from socially conservative working-class voters – the 'Howard Battlers' – were evident in Tasmanian long before other states.

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16 Where there is only one seat, the quota is therefore half the number of votes, plus one vote – which is the same as used throughout Australia in all single-member electorates.

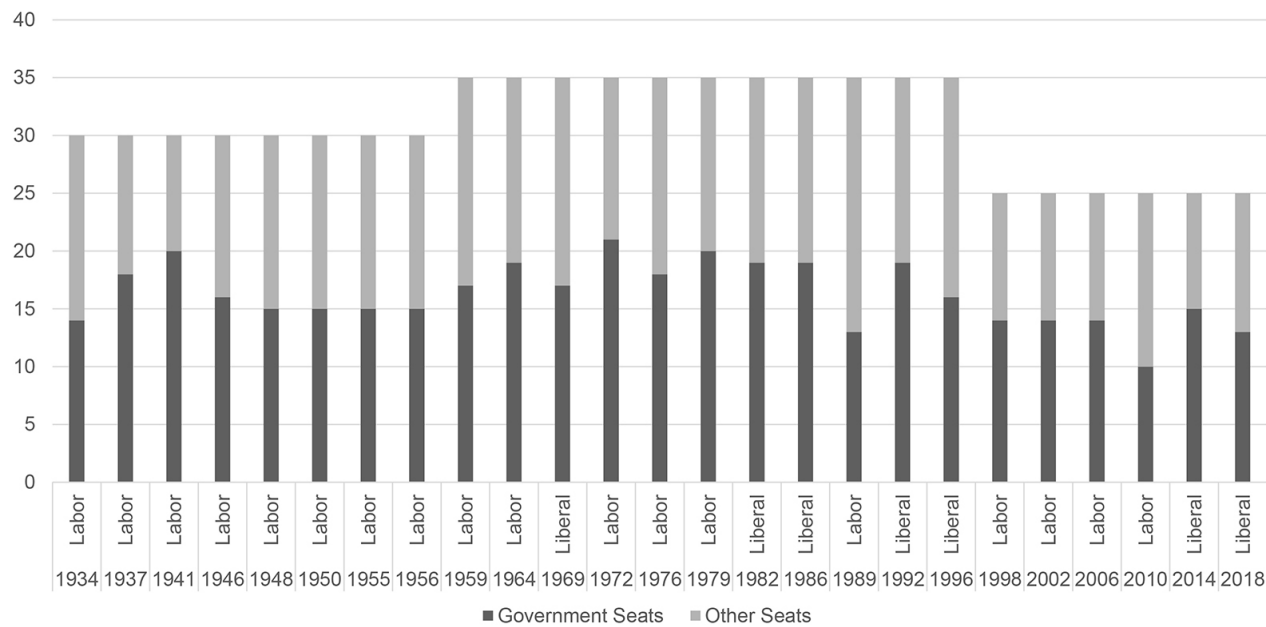


Figure 1 Tasmanian House of Assembly seats won in election years 1934–2018 by government party and other parties.

In Tasmania, the Labor and Liberal two-party system<sup>17</sup> generally prevailed at the state level between 1949 and 1982, with continuous Labor governments, occasionally with the support of independents, only disrupted by a one-term minority Liberal government between 1969 and 1972.

By the early 1980s, a proposal to dam the Franklin River became the focus of political debate both in Tasmania and nationally, at a time of high unemployment in the state. The Liberal opposition in Tasmania supported the scheme while the Labor government was torn between maintaining its commitment to industrialisation and the demands of an increasingly vocal and influential green movement who were determined to save the Franklin. Labor Premier Doug Lowe proposed a compromise of damming an alternative river in the south-west wilderness, which would still generate more power for industry but save the Franklin River. Lowe's plan failed; he lost the party leadership over the issue and moved to the cross-benches as a Labor independent. The government continued under his successor, Harry Holgate, who called an election six months later. The Liberals, under Robin Gray, subsequently secured a landslide win in the May 1982 election on the back of unprecedented working-class support. A sign of things to come, the leader of the 'Save the Franklin' campaign, Bob Brown, who later became the leader of the Australian Greens, was elected to the House of Assembly in 1983. By 1989, Green independents were a political force in Tasmania, winning five seats in parliament and entering a power sharing 'accord' with the Labor Party, enabling Labor to return to government in 1989.

The following 30 years have seen both majority Labor and Liberal governments, with one period of minority Liberal government and a further term of Labor-Green power sharing between 2010 and 2014. Not only was the Liberal Party's 1980s strategy to win working-class votes through a pro-development and jobs platform later echoed nationally, rivalries between Labor and the Greens for progressive votes in the inner cities were also first evident in Tasmania in the same decade.

#### Cabinet and the ministry

From 1972 until 1998, the Tasmanian government had a maximum of 10 ministers. Following the reduction in the size of parliament in 1998, this has varied up to nine ministers. The change in numbers, introduction of better parliamentary committee systems and the success of major parties in the Legislative Council has seen more ministers appointed to Cabinet from the upper house. Since the reduction in the size of parliament, however, there are concerns that there are too few government members from which to draw a Cabinet, too great a workload on ministers and the potential for administrative conflicts where ministers have too many portfolios. There is also the danger of having too few ordinary MPs to provide

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17 The National Party has never achieved state-level representation in Tasmania.

effective parliamentary scrutiny of government. As noted by Wettenhall, ‘questions about patterns of relationships between executive governments and legislatures’<sup>18</sup> are common in many small jurisdictions, especially island-states, where there are disadvantages in having few ministers becoming ‘jacks of all trades’, or in having the jurisdiction essentially run by the bureaucratic administration.

#### The changing political landscape

We have noted that Tasmania’s narrow industrial base and economic vulnerability has resulted in an economy that is reliant on a small number of industries. As a result of these concerns, Tasmanian voters have historically supported parties they believe will deliver economic security. For much of the 20th century, Tasmania has had Labor governments, but that changed in 1982, with the election, for the first time, of a majority Liberal government,<sup>19</sup> led by premier Robin Gray, who subsequently held office for two terms. Since then, the Liberals have held government from 1992 to 1998 and again from 2014 to the present.<sup>20</sup> In between, Labor held office for an unbroken period of 16 years (1998 to 2014), with four successive premiers, including Tasmania’s first woman premier, Lara Giddings.

While Tasmania has also experienced three minority governments with the Greens holding a balance of power,<sup>21</sup> there has been a long history of independents or minor parties holding the balance of power.<sup>22</sup> A report by an advisory committee chaired by A.G. Ogilvie noted in 1984 that ‘history has shown independents and minor parties have a tendency to gain representation in a majority of elections.’<sup>23</sup> This is facilitated by the Hare-Clark system, which enables candidates to win seats with considerably less than 50 per cent of the vote in multi-member electorates. However, the entry of the Greens to the left of the Labor Party on the back of the conservation debates changed the complexion of representative politics within the state. Since the early 1980s, the Greens have won up to five seats in some elections. Much of their gains were at the expense of the Labor Party, which recorded a record low vote of 28 per cent and won only seven seats in 2014. In the parliament elected in 2018, the Liberals have 13 seats, Labor 10 and the Greens two in the House of Assembly, while the Liberals have two seats and Labor four seats in the Legislative

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18 Wettenhall 2018, 124.

19 The Liberal government of Angus Bethune (1969–72) relied on the support of Centre Party member, Kevin Lyons (Haward and Larmour 1993, 1).

20 Premier Will Hodgman was re-elected for a second four-year term in March 2018.

21 These three hung parliaments with the Greens holding a balance of power were the Field Labor government of the Labor–Green accord between 1989 and 1992, the Rundle Liberal minority government between 1996 and 1998 and the Bartlett–Giddings Labor government, with two Greens in Cabinet, between 2010 and 2014.

22 Newman 1992, 198–201.

23 Newman 1992, 98.

Council. Nevertheless, a lack of major conservation-related issues<sup>24</sup> at the 2018 state election probably resulted in a significant decline in the Greens vote, and they won only two of the 25 lower house seats available.

### The economy

Traditionally, Tasmania's major industries have been mining, agriculture, fishing and forestry. During the period of hydro-industrialisation, major metal and forest product processing plants were also established in the state. Aquaculture has grown from a relatively small industry in the late 1980s so that Tasmania is now a large producer of seafood, particularly salmon. However, the narrow industrial base means that average Tasmanian household income is almost 19 per cent below the national average and, as a consequence, Tasmania is more reliant than other states on federal Goods and Services Tax and grant revenue for the provision of public services and infrastructure. A reliance on exports, a small number of relatively large processing industries, the vagaries of interstate and overseas transport and reliance on federal transfers have combined to make Tasmania particularly susceptible to downturns in the Australian and international economies. From the late-1990s, improvements to sea and air passenger transport sparked a growth in tourism, which has now become one of the state's major industries. Education has also grown in importance, attracting more overseas fee-paying students, albeit from a relatively low base. One outcome of the decades of debate over forestry, mining and the environment is that some 42 per cent of Tasmania is protected in the World Heritage Area, national parks or other reserves. Tasmania's natural environment and clean air, and its reputation for excellent food and drink products are key factors in attracting visitors and students to the state. As of 2018, these factors were contributing to strong economic growth and, for the first time in over a decade, the Tasmanian economy was outperforming the economies of the mainland states.

### Key issues

The much smaller scale of Tasmania's political system, compared with the other Australian states, is significant. Another distinctive feature of the island state is its relatively dispersed population. There are three distinctive and competitive regions – Greater Hobart and the south; Launceston and the north-east; and the north-west and west coasts, including Devonport and Burnie. These regions have different industrial bases, economies, needs and expectations. Despite the small size of the state, each region has its own daily newspaper that champions causes for its district.

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24 Whitson 2018. Although salmon farming was an issue, its restriction lacked significant support, and the earlier question of a pulp mill on the river Tamar had been long buried.



Overlaying this regional structure are the five House of Assembly electorates discussed above, each about the same size, in terms of voter numbers, and with boundaries drawn around communities of interest. The same electorates also give Tasmania five seats in the House of Representatives – and 12 senators in the Australian parliament, as negotiated under the Federation process, primarily by Tasmanian Andrew Inglis Clark,<sup>25</sup> an admirer of the US constitution.

Despite its small population, equal representation in the Senate means Tasmania's demands cannot be ignored federally. Competition between the regions and the voices of regional representatives at both the state and federal levels has often led to duplication of services and infrastructure where they cannot be justified by size of population alone. The state's different regional economies have often led to reliance on a small number of key industries or businesses to sustain employment, which can give a relatively small number of businesses a stronger voice in the halls of government when lobbying for infrastructure, access to resources or financial assistance.

The state's smallness creates issues for governing and governance. All political parties, at times, find it difficult to find capable candidates to fill vacancies. Name recognition has seen the establishment of political 'dynasties', where members get elected based on their family name. For example, current Liberal Premier Will Hodgman is the son of former federal and state MP Michael Hodgman, whose father, William Hodgman, was a former president of the Legislative Council. The current member for Denison, Scott Bacon, is the son of former Labor Premier Jim Bacon. The same issue causes problems in filling positions at all levels of government, from the judiciary to appointments and promotions in the public service, to filling board positions on government–business enterprises. Relatively small networks in business and politics mean it is hard to find people who have no past affiliations or business associations that can lead to suspicions of cronyism and nepotism.

More than 95 per cent of Tasmanian businesses are classified as 'small'.<sup>26</sup> By comparison, some government-owned businesses are big employers and have more financial resources, which give them a dominant voice in key policy arenas. The political power of a small number of private-sector business leaders, investors and large (in Tasmanian terms) employers has also been a cause for concern. For example, during the 2018 state election, a high profile advertising campaign funded by gaming industry lobby groups against a Labor and Greens policy to remove gaming machines from pubs and clubs was both effective and reminiscent of the forest industry campaigns of the 1980s and 1990s. It is arguable that the government was returned due to that campaign, and thus the Liberals are in debt to the gambling industry.<sup>27</sup>

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25 The same Clark as in the 'Hare-Clark' voting system.

26 Department of State Growth 2019.

27 See also Knaus and Evershed 2019 on the gambling lobby's donations to the Liberals ahead of the 2018 state election, totalling \$500,000.

## Fault lines and the future

Historically, the underperformance of Tasmania's economy is a recurring theme and the subject of numerous inquiries and attempted interventions. The 1997 Nixon report on the Tasmanian economy for the Commonwealth government, for example, noted that 'economic activity and jobs growth in Tasmania is the worst of all the states'.<sup>28</sup> As we have noted, the Tasmanian economy is currently experiencing a period of strong growth in what has been described as a 'golden age'. In a speech to the Committee for Economic Development of Australia (CEDA), Premier Will Hodgman declared Tasmania was 'now a stronger, prouder, more confident place and the economy one of the strongest performing in the country'.<sup>29</sup>

This economic renaissance began in the late 1990s, under Labor Premier Jim Bacon, with a program he named Tasmania Together – an attempt to unite people behind a plan to focus on Tasmania's advantages – its natural attractions, its reputation for excellent produce, the arts – and to instil a sense of confidence in the community. Despite falling victim to irreconcilable differences over forestry, Tasmania Together succeeded in promoting growth in tourism, a turnaround from a net decline in population to growth from both interstate and overseas migrants, and recognition of the importance of education and the arts as important sectors of economic growth. The establishment of the Museum of Old and New Art, known as MONA, by professional gambler and eccentric entrepreneur David Walsh in 2011 tapped into an international market of cultural tourism and has fostered innovation and creativity across the state.

However, the growth in population, migration, tourism and education services has generated its own set of problems. Road infrastructure, particularly in Hobart, has not kept up with the growth in numbers; tourism infrastructure is struggling to cope with increased visitation, and increased demand for accommodation has caused housing affordability problems and a rising number of the homeless. In the Hobart rental market, the amount of properties suitable for low-income people declined rapidly in 2018 due to the tourism boom and the removal of properties from the long-term market to the more profitable short-term Airbnb. Rapidly rising housing prices have also adversely affected the rental market.<sup>30</sup>

The ongoing struggle between economic development and the environment has defined Tasmanian politics. Struggles such as the fights to save the wilderness from hydro development in the 1980s and the forestry conflicts of the 1990s and 2000s seem to be abating. However, the rapid growth in tourism in recent years has led to environmental tension around the location and scale of tourism infrastructure, such as resorts, hotels and a cable car, and encroachment on wilderness areas.

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28 Nixon 1997, v.

29 Hodgman 2017.

30 Anglicare 2018, 6.

## Conclusions

The central challenge facing Tasmania is whether the island state can exploit its distinctive strengths to achieve sustainable and inclusive economic growth despite the challenges of remoteness and scale. In many ways, this is a political challenge as much as an economic one. Ultimately, Tasmania's prosperity will depend on two factors. First, the political challenge involves resolving traditional tensions between progressive environmentalists and more conservative commercial interests. On this front, the outlook is more optimistic than it has been for decades, given that political conflict over forestry has abated significantly in recent years, although concerns about aquaculture and tourism remain. A second challenge is whether Tasmanians can have the education and skills to capitalise on the transition from an industrial to a service and knowledge-based economy. The concern here is that levels of educational attainment in Tasmania are well below the national average and that growing numbers of businesses complain about shortages of skilled labour.

Tasmania is Australia's smallest and poorest state. Its isolation, scale and economic challenges have contributed to what is, by Australian standards, a unique political culture. In recent years, Tasmania's economic performance and outlook have improved significantly, but it remains to be seen whether the ideological and parochial divisions that have afflicted its politics in the past will prevent the island state from realising its full economic and social potential.

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# Victoria

Nick Economou

## Key terms/names

constitution of Victoria, constitutional reform, cosmopolitanism and wowseryism, demographic change, Dick Hamer, economic policy and social policy, electoral systems, party systems and the pattern of government, Henry Bolte, Jeff Kennett, Joan Kirner, John Cain, political economy, regional, rural and metropolitan Victoria, Steve Bracks

The state of Victoria can be thought of as Australia's 'second' state not because of historical chronology (Victoria, previously known as the Port Phillip District, was an administrative province of New South Wales [NSW] until formal separation on 1 June 1851 and was established after both NSW and Tasmania) but rather because of demographics and economics. Victoria is the second most populous state after NSW, and the state's capital city, Melbourne, is Australia's second most populous city after Sydney. Victoria provides the second largest tranche of members to the House of Representatives, and the Victorian governor stands second in line to be governor-general should the incumbent vacate the position.

Victoria is also important to the national economy, although the nature of its contribution has changed over time. Initially settled (illegally) as an extension of the Van Diemen's Land fine wool industry by people such as John Batman and Edward and Stephen Henty, Victoria received a massive infusion of free settlers with the official discovery of gold in 1851 – the same year the Port Phillip District was

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separated from NSW and renamed Victoria.<sup>1</sup> By the 1870s, Melbourne emerged as a major manufacturing centre, and in the 1880s the city experienced a significant real estate boom that was to end in a spectacular crash in the 1890s.<sup>2</sup> At Federation Victoria was a major producer of grains and wool as well as a manufacturer of farming implements, and one of Australia's landmark industrial disputes occurred at the Sunshine Harvester Works in Melbourne's western suburbs in 1907 – a dispute that was resolved by Justice Henry Bournes Higgins outlining the concept of a 'minimum wage' in his Harvester judgement.<sup>3</sup>

Victorian manufacturing was vital to the supply of Australian troops in both world wars. After the Second World War, Melbourne's armaments manufacturing industry shifted to automobiles, with a race between Ford and General Motors to be the first to develop an Australian car.<sup>4</sup> The consolidation of manufacturing under the auspices of British and American corporations led to Melbourne's reputation as the preferred home of international capital. As the base for the Australian Council of Trades Union, there was a strong link between the city and the 'industrial relations club'.

For all this industrial activity, the state's political history was, until comparatively recent times, dominated by conservatives and liberals.<sup>5</sup> Until the 1980s, Labor governments were rare. The state's politics were invariably a battle between rural conservatives and metropolitan liberals with the nascent Labor Party something of an incidental player (see Table 1).<sup>6</sup>

Victoria was the home of such prominent colonial liberals as Henry Bournes Higgins and Alfred Deakin, both of whom were participants in the Federation movement. It was the home of arguably Australia's greatest liberal-conservative Robert Menzies, and Liberal leader Henry Bolte still holds the record as the state's longest-serving premier. With the advent of the modern party system, Victoria was often referred to as the 'jewel in the Liberal crown'. This historical theme stands in stark contrast with more contemporary politics, in which Victoria (and especially Melbourne) is viewed as the epicentre of progressive politics that is governed by the Australian Labor Party (ALP) more often than not, and is arguably the strongest state for the Australian Greens.

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1 Legislation from the NSW Legislative Council authorising the separation was passed in 1850 upon passage of the *Australian Colonies Self Government Act 1850* (UK) in Britain. Promulgation of the Act and actual separation occurred on 1 June 1851.

2 Cannon 1995.

3 Rickard 1984.

4 Conlon and Perkins 2001.

5 Murray 2007; Rawson 1977.

6 Holmes 1976.

## History

The colonisation of the Port Phillip District began with sheep farmers from Van Diemen's Land such as John Batman and Edward and Stephen Henty making the trip by sea to 'squat' on the western plains of what was then part of NSW. The entrepreneurial drive behind this initial land grab, to the cost of both Indigenous people and the authority of the governor of NSW, Richard Bourke, was revisited in 1851 when gold was officially discovered at Warrandyte and a rush of free settlers from around the world descended upon Melbourne.

By the 1870s gold mining went from alluvial activity to deep lead mining undertaken by capitalised mining companies. Those who had rushed to the goldfields but were displaced drifted back to Melbourne's western suburbs in search of work.<sup>7</sup> By the time of the real estate boom of the 1880s, the vast majority of Victorian residents lived in Melbourne and its suburbs. This demographic characteristic persists: the 2011 Census found that 75 per cent of Victorians live in local government areas classified as metropolitan.<sup>8</sup>

The gold rush reinforced the notion of Victoria as a place for small-scale business operators and entrepreneurs as well as establishing the idea of Melbourne as a cosmopolitan city. The rebellion of miners at Eureka (Ballarat) in 1854 also demonstrated the importance of liberal ideas such as manhood suffrage and no taxation without parliamentary representation, grievances free settler miners had with the colony's administration. Two years later Victoria obtained a constitution that introduced a Westminster system of parliamentary government.

The new constitution was promulgated in Victoria in 1856. It provided for a Legislative Assembly that would be elected by men over the age of 21 regardless of property ownership. The assumption was that government would be exercised by a 'prime minister' and a ministry with the confidence of the majority of the lower house. The Legislative Council would comprise men of property, elected by men of property, who could exercise a powerful veto over the lower house. Parliamentary salaries were not introduced until 1870. Female suffrage was not legislated for until 1908, and the law that prohibited women from standing for election was not abolished until 1924. The property qualifications that applied to the Legislative Council were abolished in 1951.

Political instability was the dominant characteristic of Victorian parliamentary politics from colonial times until a major split in the Labor Party in 1955, which set the basis for a period of Liberal Party dominance through to the 1980s.<sup>9</sup> Prior to 1955, leadership challenges, bitter fights between rural conservatives and urban liberals, and the threat of early elections by a conservative-dominated Legislative Council were the norm in Victorian politics.

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<sup>7</sup> Lack 1991.

<sup>8</sup> ABS 2012.

<sup>9</sup> Murray 2007.



The upper house was a source of some controversy during these times. The 1855 constitution gave the Legislative Council powers commensurate with those of the British House of Lords including the power to defeat Appropriation Bills and thus force governments formed in the lower house to early elections. The Legislative Council exercised the power to block supply on 10 occasions, the last time being in 1952 when it brought down a Country Party government.<sup>10</sup>

The 1952 blocking of supply occurred as a result of a political crisis within conservative politics over the state's electoral laws.<sup>11</sup> Debates about the structure of lower house representation to accommodate rural fears about being overwhelmed by the population of metropolitan Melbourne were arguably the greatest policy controversy in Victorian politics from self-government until the 1950s. At issue was rural malapportionment, where rural voters had greater capacity to elect representatives than metropolitan voters. Rural political interests fought tooth and nail to protect voter inequality, and this split conservative politics. Spectacularly in 1929, the Labor Party was to form a coalition government with the Country Party by promising to protect rural malapportionment, despite the fact that it was Labor voters, clustered in a handful of seats in Melbourne's industrial western suburbs, who had the weakest voting power in the state.

Labor's desire to have executive power overrode its opposition to rural malapportionment. The Labor–Country coalition lasted for only a matter of months, and left in its wake a long-lasting bitterness between the Country Party and the main anti-Labor Party of the time (initially the Nationalists, then the United Australia Party, and then the Liberal Party). The most explicit expression of this antipathy was to be found in the refusal of the two anti-Labor parties to form a coalition – a position that was maintained until 1990.<sup>12</sup>

This also contributed to governmental instability. With the vote split across three parties, absolute majorities in the Legislative Assembly were rare and most of the governments formed between the end of the First World War and the 1950s were minority administrations that could collapse very quickly. Even those governments that did survive struggled to get legislation through a very conservative Legislative Council. So volatile were the times that Labor eventually got the opportunity to govern in its own right, having won a lower house majority in 1947 and again in 1952 as the anti-Labor parties split over proposals to reform the electoral system.<sup>13</sup>

These Labor governments did not last long. In 1949, the Legislative Council blocked supply in protest at Labor's policy of nationalising the private banks (the federal Labor government had passed legislation to do this in 1947, only for it to be overturned by the High Court). On the second occasion, the Labor Party itself

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10 Holmes 1976.

11 Costar 2006, 248.

12 Costar 1999, 90–1.

13 Costar 2006, 235–8.

**Table 1 Party governments of Victoria 1909 to 2019**

| <b>Party</b>           | <b>Premiers</b>    | <b>Duration of party government</b> |
|------------------------|--------------------|-------------------------------------|
| Liberal (Deakinite)    | John Murray        | 8/1/1909 to 9/12/1913               |
|                        | William Watt       |                                     |
| Labor                  | George Elmslie     | 9/12/1913 to 22/12/1913             |
| Liberal (Deakinite)    | William Watt       | 22/12/1913 to 21/3/1917             |
|                        | Alexander Peacock  |                                     |
| Nationalist            | John Bowser        | 21/3/1917 to 18/7/1924              |
|                        | Harry Lawson       |                                     |
|                        | Alexander Peacock  |                                     |
| Labor                  | George Prendergast | 18/7/1924 to 18/11/1924             |
| Country/Nationalist    | John Allan         | 18/11/1924 to 20/5/1927             |
| Labor                  | Edmond Hogan       | 20/5/1927 to 22/11/1928             |
| Nationalist            | William McPherson  | 22/11/1928 to 12/12/1928            |
| Labor                  | Edmond Hogan       | 12/12/1928 to 19/5/1932             |
| United Australia Party | Stanley Argyle     | 19/5/1932 to 2/4/1935               |
| Country                | Albert Dunstan     | 2/4/1935 to 14/9/1943               |
| Labor                  | John Cain Sr       | 14/9/1943 to 18/9/1943              |
| Country                | Albert Dunstan     | 18/9/1943 to 2/10/1945              |
| Liberal                | Ian MacFarlan      | 2/10/1945 to 21/11/1945             |
| Labor                  | John Cain Sr       | 21/11/1945 to 20/11/1947            |
| Liberal                | Thomas Hollway     | 20/11/1947 to 27/6/1950             |
| Country                | John McDonald      | 27/6/1950 to 28/10/1952             |

| <b>Party</b>         | <b>Premiers</b>       | <b>Duration of party government</b> |
|----------------------|-----------------------|-------------------------------------|
| Electoral Reform     | Thomas Hollway        | 28/10/1952 to 31/10/1952            |
| Country              | John McDonald         | 31/10/1952 to 17/12/1952            |
| Labor                | John Cain Sr          | 17/12/1952 to 7/6/1955              |
| Liberal              | Henry Bolte           | 7/6/1955 to 8/4/1982                |
|                      | Rupert Hamer          |                                     |
|                      | Lindsay Thompson      |                                     |
| Labor                | John Cain Jr          | 8/4/1982 to 6/10/1992               |
|                      | Joan Kirner           |                                     |
| Liberal and National | Jeffrey Kennett       | 6/10/1992 to 20/10/1999             |
| Labor                | Steve Bracks          | 20/10/1999 to 2/12/2010             |
|                      | John Brumby           |                                     |
| Liberal and National | Edward (Ted) Baillieu | 2/12/2010 to 4/12/2014              |
|                      | Denis Naphine         |                                     |
| Labor                | Daniel Andrews        | 4/12/2014                           |

Source: <https://www.vec.vic.gov.au/Results/results-historical-vicpremiers.html>

split amidst allegations of communist infiltration of the trade union movement and claims that groups of Labor members recruited to win back communist unions had instead started to turn on Labor members. The willingness of Daniel Mannix, the Catholic Archbishop of Melbourne, to encourage this anticommunist sentiment within an overwhelmingly Catholic Labor membership added a sectarian element to this internal upheaval.<sup>14</sup>

The impact of the split was devastating for the Victorian ALP. The collapse of the state Labor government was followed by an electoral rout that began an unbroken period from 1955 to 1982 in which the recently formed Liberal Party would be the

<sup>14</sup> Murray 1970.

party of government. For most of this time, the Liberal leader was the conservative Henry Bolte (premier from 1955 to 1972) whose loathing of the left in Victorian politics was matched by his disdain for the Country Party.

#### Modern Victorian politics

The Labor split in 1955 provided the opportunity for Bolte and the Liberal Party to dominate state politics until the 1980s. It was this period that led to Victoria to be described as ‘the jewel in the Liberal crown’. Bolte led a socially conservative government. His retirement marked a shift towards a more progressive approach as a new generation of urban moderates emerged within the ranks of the Liberal Party. The most prominent of these was Rupert (‘Dick’) Hamer who, as premier, led a government that set about undoing a raft of conservative policies put in place by his predecessor.<sup>15</sup> By 1981, however, Hamer had retired amidst a sense that the Liberal Party had atrophied. In 1982, Labor, under the leadership of John Cain Jr, was elected to government for the first time since 1952. A new era of Victorian politics had begun.<sup>16</sup>

Labor’s success in 1982 showed that the consequences of the 1954–55 split had finally run their course. In 1983, amidst a hail of rotten tomatoes, delegates from the four unions that split from Labor in 1954 were re-admitted to the party, thereby altering the party’s factional balance. It is interesting to note that Labor’s subsequent strong record of electoral success in Victoria dates from the apparent resolution of the split. Meanwhile, there was an end to another old enmity, this time on the part of non-Labor politics. In 1990, and just before the government-changing election in 1992, the Liberal and National parties signed a coalition agreement for the first time.

In contrast to the volatility of the interwar years, and the Liberal dominance from the 1950s, contemporary Victorian politics has seen government shared between Labor and the Liberal–National Coalition. Between 1982 and 2018, Labor exercised power between 1982 and 1992, 1999 and 2010, and from 2014. During these terms in government, there were five premiers: John Cain (1982–91), Joan Kirner (1991–2, and Victoria’s first female premier), Steve Bracks (1999–2008), John Brumby (2008–10) and Daniel Andrews (2014–). The Liberal premiers were Jeff Kennett (1992–9), Ted Baillieu (2010–12) and Denis Napthine (2012–14). The Labor dominance over this period is a noteworthy feature; clearly Victoria is no longer a Liberal jewel.

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<sup>15</sup> Rodan 2006.

<sup>16</sup> Considine and Costar 1992.

**Table 2 General election statewide primary vote Legislative Assembly, Victoria  
1955–2018**

| <b>Election<br/>year</b> | <b>Liberal %<br/>(seats)</b> | <b>Country/National %<br/>(seats)</b> | <b>ALP %<br/>(seats)</b> | <b>Others %<br/>(seats)</b> |
|--------------------------|------------------------------|---------------------------------------|--------------------------|-----------------------------|
| 1955                     | 37.8(34)                     | 9.5(10)                               | 32.5 (20)                | 19.9(2)                     |
| 1958                     | 37.1(39)                     | 9.3(9)                                | 37.7(18)                 | 15.6(0)                     |
| 1961                     | 36.4(39)                     | 7.1(9)                                | 38.5(17)                 | 17.9(1)                     |
| 1964                     | 39.6(38)                     | 8.7(10)                               | 36.2(18)                 | 15.3(0)                     |
| 1967                     | 37.5(44)                     | 8.6(12)                               | 37.9(16)                 | 15.9(1)                     |
| 1970                     | 36.7(42)                     | 6.4(8)                                | 41.4(22)                 | 15.5(1)                     |
| 1973                     | 42.3(46)                     | 5.9(8)                                | 41.6(18)                 | 10.0(1)                     |
| 1976                     | 46.1(52)                     | 7.1(7)                                | 42.2(21)                 | 4.5(1)                      |
| 1979                     | 41.4(41)                     | 5.6(8)                                | 45.2(32)                 | 7.5(0)                      |
| 1982                     | 38.3(24)                     | 4.9(8)                                | 50.1(49)                 | 6.6(0)                      |
| 1985                     | 41.9(31)                     | 7.3(10)                               | 50.1(47)                 | 0.8(0)                      |
| 1988                     | 40.5(33)                     | 7.8(9)                                | 46.5(46)                 | 4.9(0)                      |
| 1992                     | 44.1(52)                     | 7.8(9)                                | 38.4(27)                 | 9.5(0)                      |
| 1996                     | 43.9(49)                     | 6.7(9)                                | 43.1(29)                 | 6.3(1)                      |
| 1999                     | 42.2(36)                     | 4.8(7)                                | 45.6(42)                 | 7.2(3)                      |
| 2002                     | 33.9(17)                     | 4.3(7)                                | 47.9(62)                 | 13.7(2)                     |
| 2006                     | 34.4(23)                     | 5.1(9)                                | 43.0(55)                 | 17.3(1)                     |
| 2010                     | 38.0(35)                     | 6.8(10)                               | 36.2(43)                 | 18.9 (0)                    |
| 2014                     | 36.8(30)                     | 5.5(8)                                | 38.1(47)                 | 10.1 (3)                    |
| 2018                     | 30.4(21)                     | 4.7(6)                                | 42.8(55)                 | 21.0(6)                     |

Source: <http://elections.uwa.edu.au/index.lasso>

**Table 3 Legislative Council results 1961–2018**

| <b>Election</b> | <b>Liberal % (seats)</b> | <b>Country % (seats)</b> | <b>ALP % (seats)</b> | <b>Others % (seats)</b> |
|-----------------|--------------------------|--------------------------|----------------------|-------------------------|
| 1961            | 37.9 (9)                 | 6.2(4)                   | 38.9(4)              | 17.0(0)                 |
| 1964            | 40.1(9)                  | 8.9(4)                   | 35.4(4)              | 15.5(0)                 |
| 1967            | 38.5(10)                 | 9.5(4)                   | 36.9(4)              | 15.1(0)                 |
| 1970            | 37.6(10)                 | 6.1(4)                   | 42.0(4)              | 14.3(0)                 |
| 1973            | 43.1(11)                 | 6.4(3)                   | 40.8(4)              | 9.7(0)                  |
| 1976            | 48.3(15)                 | 7.9(2)                   | 42.6(5)              | 1.2(0)                  |
| 1979            | 43.7(12)                 | 5.8(2)                   | 45.3(8)              | 4.9(0)                  |
| 1982            | 39.2(9)                  | 5.5(2)                   | 49.5(11)             | 5.6(0)                  |
| 1985            | 41.1(8)                  | 6.6(3)                   | 47.3(11)             | 4.8(0)                  |
| 1988            | 43.5(10)                 | 7.5(3)                   | 48.1(9)              | 0.8(0)                  |
| 1992            | 43.5(14)                 | 8.7(3)                   | 38.5(5)              | 9.9(0)                  |
| 1996            | 43.8(14)                 | 6.6(3)                   | 40.5(5)              | 8.9(0)                  |
| 1999            | 39.7(11)                 | 7.3(3)                   | 42.2(8)              | 10.5(0)                 |
| 2002            | 34.5(3)                  | 4.3(2)                   | 47.5(17)             | 13.4(0)                 |
| 2006(a)         | 34.5 (15)                | 4.4(2)                   | 41.4(19)             | 18.6(4)                 |
| 2010            | 43.1(18)(b)              |                          | 35.3(16)             | 21.2(3)                 |
| 2014            | 36.1(14)(b)              |                          | 33.4(14)             | 29.3(10)                |
| 2018            | 29.4(11)(b)              |                          | 39.2(18)             | 30.8(11)                |

Source: <http://elections.uwa.edu.au/index.lasso>.

(a) Proportional representation system commences

(b) Liberal and National joint ticket

## Constitutional reform

The resurgence of Victorian Labor was to have significant consequences for the state's constitution, with associated consequences for the electoral system and the Legislative Council. In 2002, Labor won its largest ever lower house majority. In addition to winning control of the Assembly, Labor also won a majority in the Legislative Council. Labor had won the Council once before, in 1985, but the overturning of a result in one seat by the Supreme Court and the Liberal victory in the subsequent by-election denied Labor that majority after only a few months.<sup>17</sup> This time there was no question about its majority and, in addition to being certain about getting its legislation through the parliament without amendment, the Bracks government now also had the power to reform the state constitution. At that time, the state constitution could be altered by an Act of the parliament.

Armed with the recommendations of a constitutional convention that it had commissioned as part of its agreement with rural independents who held the balance of power after the 1999 election,<sup>18</sup> the Bracks government introduced the *Constitution (Parliamentary Reform) Bill 2003* (Vic) to the parliament in 2003. The reformed Victorian constitution is now the only Australian constitution to make explicit reference to the position of premier and to note the subordination of the governor to the premier unless the premier has lost the confidence of the Legislative Assembly. The amended constitution reinforces the idea of the Assembly as the house of government by providing that Appropriation Bills need only to pass the lower house to become law, thereby explicitly removing the Legislative Council's previous power to block 'supply'. The Council's power to amend or reject all other Bills remains, although the new constitution provides for a 'Disputes Resolution' mechanism where the two houses can't agree on a Bill. It also allows the premier to declare a Bill to be 'Special' in that its rejection by the upper house could be the trigger for the premier to be able to advise the governor for the need to call an early election. In another diminution of the power of the upper house, the amended constitution provides for fixed four-year terms for both houses and that elections for both houses be held simultaneously.<sup>19</sup>

The amended constitution states that the Legislative Assembly will consist of single representatives from 88 electoral districts (the constitutional time-bomb of a 44-all outcome at the conclusion of an election ticks away), and 40 Legislative Council members to be elected from eight upper house electoral 'Regions' each made up of 11 lower house districts. The amended constitution comprises a number of 'reinforced provisions' which means that they can now only be altered by way of a constitutional referendum.

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17 Costar and Economou 1992, 251.

18 Victoria, Constitution Commission 2002.

19 Taylor 2006.

## Electoral systems and party systems

Victorian electoral laws were amended in 2002. They now require voter equality across all districts and provide for re-districting to occur after every second election, thus finally laying to rest that venerable controversy of rural malapportionment. The Legislative Assembly continues to utilise single-member districts and the alternative vote (known colloquially as ‘preferential voting’). As the upper house requirements clearly involve multi-member electorates given the changes to the constitution, the single transferrable vote (STV) method of proportional representation favoured in Australian upper house electoral systems now applies in Victoria.

This has had consequences for the Victorian party system (see Tables 2 and 3). Between 1955 and 2006 – the first state election to be held under the auspices of the new constitution – Victorian election outcomes in both parliamentary houses were monopolised by the Labor Party, the Liberal Party and the National (formerly Country) Party with the occasional independent securing a seat or two in the lower house.<sup>20</sup> The new electoral arrangements for the Legislative Council were predicated on the understanding that the upper house could only be effective as a house of review provided it was not dominated by either Labor or the Coalition. This objective has been achieved; since 2006 neither Labor nor the Coalition have had an upper house majority, with the balance of power being exercised by an increasingly diverse number of minor parties.

Of the parties that have held seats in the upper house since 2006, the Australian Greens have been the most consistent performer. The rise of the Greens has been another significant development in Victorian politics and has been reflected not just in the party’s ability to win seats in the upper house but also its success in winning seats in the Legislative Assembly. In 2010, the Greens won the lower house seat of Melbourne and since then have secured other inner urban seats. The greatest challenge from the Greens occurs in what used to be very safe Labor seats, but it has also been the case that the Greens have won inner urban seats from the Liberal Party as well.

The correlation between lower house districting and demographics indicate that the Greens’ lower house success reflects changes to the population of inner Melbourne. For much of the city’s history the inner north and west were dominated by blue-collar electors voting for the Labor Party. In the post-Second World War period this constituency was augmented by waves of migrants, many of whom were housed in high-rise public housing blocks constructed in the 1950s and 1960s. By the 1980s, the inner city was highly sought after by well-educated professionals attracted to the employment opportunities arising from the transition of inner Melbourne from industrial suburbs to hubs of post-industrial economic activity. The rise of post-secondary education as a major component of the Victorian

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20 Economou, Costar and Strangio 2003, 162–7.



economy was also a factor, as many key education institutions leading this development are based in or near the central business district.

Significant gentrification of the inner urban suburbs has created the conditions for a Greens-voting constituency. Beyond the inner city the Greens vote falls away and the party's role in these lower house districts is confined to influencing the outcome between the major parties by way of preference distribution. Notwithstanding this, the Greens now rank alongside the major parties as participants in the Legislative Assembly, thus providing grounds for describing Victorian politics as a four-party system. This also has the potential to make for a very close contest for the Assembly. In theory, single-member electoral systems should reward the successful party or parties with a clear lower house majority. Since 1999, however, Victoria has experienced minority government twice (1999 to 2002 and towards the latter stages of the Coalition government between 2010 and 2014) and some election outcomes have been very close.

#### The policy debate

Given the significant constitutional and administrative capacity state governments have to make public policy, the list of potential policy controversies on the state policy agenda is vast. However, in the case of Victoria, the policy record can be usefully assessed under two broad headings: the provision of infrastructure (which is of critical importance to the state's approach to economic policy), and 'social policy'. In both cases, something of a major transition occurred in the Victorian approach to both economic and social policy during the 1980s and 1990s. In the case of infrastructure provision, Victoria enthusiastically embraced the neoliberal argument about the desirability of a reduced role for government, particularly in relation to the provision of services that could instead be provided by the private sector. Social policy, meanwhile, underwent no less a significant change, the consequence of which was to erase the state's previous reputation for conservatism and prohibition – an approach to policy that was known to an older generation of Victorians as 'wowsersism'.<sup>21</sup>

#### Infrastructure, economy and the state sector

Historically, the public sector has been a major presence in Victoria's economy. Until the 1990s, the Victorian economy comprised the private sector operating with or through major state corporations providing energy, fresh water, transport, port facilities and financial services.

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21 Dunstan 1974.

The extent of this mixed economy was so renowned it was even recognised in the USA. In 1934, the Melbourne-based head of car manufacturer General Motors Holden, Sir Laurence Hartnett, visited Detroit to persuade the American parent company General Motors Corporation (GMC) to support development of an 'Australian' car. His first task was to explain to GMC president, Alfred Sloan, that the state of Victoria was not a socialist state simply because 'the government ran the railways'.<sup>22</sup>

Given that the Labor Party had hardly ever been in government between 1856 and 1982, the development of the state's extensive public infrastructure was not the legacy of socialist ideology but, rather, liberal and conservative pragmatism.<sup>23</sup> Put simply, Victoria's political leaders were not averse to the idea of creating a state corporation to build or run something considered vital to the advancement of the colony/state.

Consequently, the rise of Victoria as an industrial state was linked with the preponderance of a small number of very large state corporations providing transport (the Victorian Railways, especially under the leadership of Sir Harold Clapp), energy (the State Electricity Commission of Victoria, SECV, under the direction of Sir John Monash and then, in the 1960s, following the discovery of oil and gas in Bass Strait, the Gas and Fuel Corporation), fresh water and the disposal of sewage (The Melbourne and Metropolitan Board of Works), and financial services (The State Savings Bank of Victoria). By the 1980s, the aforementioned corporations and others such as the Port of Melbourne Authority, the Grains Elevator Board, and the Country Roads Board were at the heart of the Victorian industrial and agricultural economy. Given their responsibility to build infrastructure, they were also major employers of labour.

#### Reducing the public sector: privatisation

By the 1980s, public and political attitudes towards the public sector began to shift. Those corporations that had been at the centre of the development of Victoria as a major manufacturing state were now being critically scrutinised. The fact that they were monopolies did not sit well with emerging economic theory about the need for competition. Their very bureaucratic method of operation was sometimes interpreted as being impervious to the needs of customers, and their corporate approach to planning had the unfortunate political consequence of them being seen to be beyond political control.<sup>24</sup> A new generation of politicians tended to have a less benign view of these corporations than their predecessors, and, in this environment, arguments about the need to break up large state corporations

<sup>22</sup> Hartnett 1981.

<sup>23</sup> Holmes, Halligan and Hay 1986, 26–7.

<sup>24</sup> Gerritsen 1985; Rosenthal and Russ 1988.

and allow a diversity of private players into the market resonated in the political debate.<sup>25</sup>

The election of the Liberal–National coalition government headed by Jeff Kennett in 1992 marked a period of intense privatisation in which few corporations were spared, although it was also true that the previous Labor government had been forced to sell the State Savings Bank and had started the disintegration of the SECV.

Some of this had been done in response to pressure coming from the federal Labor government whose treasurer, Paul Keating, was an advocate of privatisation as part of his commitment to economic reform. The Kennett government's extensive privatisation was described by some as being the product of ideology, but the new government declared that it had been elected to deal with Victoria's burgeoning public sector debt and it was simply following through on its commitment.<sup>26</sup>

The initial purpose of the privatisation was to address the budget deficit. Receipts from the sale of public corporations went to retiring debt. Privatisation also sought to reduce the size of the state's public sector workforce. Commencing with the SECV and extending to other corporations, the government's enthusiasm for this approach extended to other areas of policy including corrective services and local government. The reform of local government was quite extensive and involved a suspension of local government elections for a number of years. Other changes resonated with the small government agenda, and included capping rate rises, amalgamating councils and requiring councils to contract their service provision functions out to private providers.<sup>27</sup> This reform hit rural councils particularly hard, and it was noticeable that a collapse in support for both the Liberal and National parties in regional and rural districts contributed to the unexpected defeat of the Kennett government in 1999.<sup>28</sup>

#### The state as co-ordinator

In the period between its re-election in 1996 and its defeat in 1999, the Kennett government's approach to the policy debate began to shift. Whereas debt retirement was a primary objective in the previous electoral cycle, the government used its second term to undertake some major public works. Arguably the most significant of these was a major road construction project to connect various freeways by tunnelling under previously sensitive locations such as the Royal Botanical Gardens adjacent to the central business district. This project was constructed by a privately owned corporation which was also able to charge tolls. The role of government

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25 Woodward 1999.

26 Parkinson 2000.

27 Kiss 1999.

28 Woodward and Costar 2000.

was basically that of co-ordinator and regulator of what was otherwise a private construction program.

The 'City-link' project was the harbinger of a new approach to infrastructure provision that was to be adopted by governments that succeeded the Kennett administration. This included Labor governments, none of which reversed the privatisations undertaken by Kennett with the exception of some rural and regional passenger rail services. The Bracks and Brumby Labor governments developed the concept of the 'public-private partnership' as the basis for constructing the major 'East-link' tolled freeway between Ringwood and Frankston and a major water desalination plant at Wonthaggi in south Gippsland. The Andrews Labor government used receipts from the sale of the Port of Melbourne Corporation to fund a major underground rail project and an underground connector for the West Gate Freeway (another privately constructed road with tolls).

This by no means exhaustive list of infrastructure projects commissioned by both Labor and Coalition governments provides an insight into contemporary thinking about the role of government and the public sector in the state's political economy. The previous method of creating large statutory corporations to build and run infrastructure has been replaced by a preference for private interests undertaking construction and operation of roads, rail and ports. The state sector's role is to decide what projects will be undertaken and then establish regulatory regimes by which the functions performed by private providers can be overseen. In some instances statutory bodies will also ensure the compliance of private providers in relation to meeting social obligations: energy companies, for example, are overseen by energy industry regulators and consumer watchdogs. The role of the state sector has moved towards co-ordination and regulation as well as assisting ministerial departments to formulate policy advice to government. In this respect, the state sector is still a vital component of Victoria's political economy, notwithstanding the extent of the privatisation that has occurred since the 1990s.

### Social policy

The transition in policy approach overseen by successive Victorian governments since the 1980s has been even more starkly evident in the realm of social policy. The retirement of Liberal premier Henry Bolte in 1972 marked the turning point. Under Bolte, Victoria had capital punishment; homosexuality and pregnancy terminations were illegal (this led to a network of 'backyard' abortion providers which, in turn, led to the corruption of sections of the police); prostitution was illegal; shops closed at 5.30 pm and did not open on Sundays, restaurants were not permitted to sell alcohol and hotels had to close by 10 pm. There was scant weekend trading, there were few conservation constraints on developers, urban planning laws prohibited residential development in the central business district, and the only gaming permitted was that run by the Totalisator Agency Board and applied only to horse

racing. Victorians who wished to partake of gaming machines (known colloquially as ‘poker machines’ or ‘the pokies’) had to travel to NSW. These prohibitions reinforced the notion of Victoria as a staid, conservative and prohibitionist state. The term ‘wowser’ emerged to describe this conservative Victorian mindset.

The task of undoing the Bolte legacy began under his successor, Dick Hamer. His government moved to solve the police corruption crisis by decriminalising abortion. This government also put in place extensive urban and rural conservation laws. It abolished capital punishment and decriminalised homosexuality. The Cain Labor government legalised and regulated prostitution and began deregulating liquor licensing laws in a bid to encourage a cafe approach to wining and dining that was emerging from Melbourne’s large ethnic communities, thereby setting Victoria on course to enjoy a tourism boom. The Kennett coalition government issued an apology to the Stolen Generation in 1997. It also deregulated retail trading hours and radically expanded the gaming industry to include poker machines, and backed the development of a major casino complex on the southern bank of the Yarra River, where factories and warehouses once stood. The Bracks Labor government instituted a bill of rights, and the Brumby Labor government oversaw the decriminalisation of abortion. The Andrews Labor government committed Victoria to ambitious greenhouse gas emission reductions. In 2017, it also oversaw the introduction of ‘dying with dignity’ laws, thereby permitting euthanasia in certain circumstances.

Some of these reforms precipitated bitter political exchanges, as the state’s conservative forces within the community, politics and some of the churches maintained their opposition to abortion and euthanasia. Other reforms have been the subject of ongoing debate about their social consequences. Gaming liberalisation has been the subject of intense criticism on the grounds that it has caused unacceptable social consequences. Strong concerns have been expressed about the link between excessive alcohol consumption and violence, as well as its impact on road safety. It is the prerogative of government to respond to these concerns and formulate policy accordingly, but the significance of the extent to which social policy has changed since the 1980s cannot be denied. Victoria generally, and Melbourne in particular, are very different places to what they were at the height of the ‘wowser’ period under the auspices of the Liberal Party conservatives of the Bolte era.

## Conclusions

The government and politics of Victoria reflect both stability and significant change. Stability is to be found in the basic institutions of government where, in the aftermath of the Eureka rebellion, colonial and British political actors were quick to institute a Westminster system of parliamentary government that continues to this day. Modifications to the constitution occurred periodically, with arguably the

most significant of these being the changes in 2003, although all they really did was codify the core Westminster conventions that the lower house is the house of government, the upper house is a house of review, and the governor acts on the advice of the premier.

The significance of change is to be found in the state's politics and, through it, the policy debate. The three-way division of the party system after the First World War led to political volatility and obsession with electoral laws. Planning and development of the state was left to the major state corporations that delivered transport, resources and energy and this was to be a feature of the Victorian state sector until it was comprehensively dismantled by the Kennett government in the 1990s. In the meantime, the Labor split in the 1950s led to one-party government in Victoria, as a particularly conservative Liberal Party secured a series of election victories and found little opposition to its agenda from the Legislative Council.

Although the decline of the conservative hegemony started with generational leadership change in the Liberal Party, the key moment was the election of a Labor government in 1982. This was significant for two reasons: first, this election marked the end of Liberal dominance of the state's politics and the beginning of a new era where government could be led by either Labor or the Liberals and Nationals working in coalition. Second, the election of Victoria's main social-democratic party began the process of converting Victoria from the prohibitionist conservatism of the Bolte era into a more cosmopolitan and socially progressive community. The modern Liberal Party has aligned with this, and brought a commitment to economic liberalisation.

Both Labor and the Coalition have assisted in this transformation of Victoria into a post-industrial economy with a strong reputation for being socially progressive and remarkably cohesive for a community with such a diversity of ethnic and racial backgrounds. As with all policy debates, there have been disagreements on various aspects, and challenges arise as to how to cope with the growth of the Melbourne metropolis in particular. Despite the decline of manufacturing, the state continues to be a major driver of the national economy, and the policy-making process – based on an elected parliament and an extensive if transformed public sector – has been at the centre of this. Victoria's record is a confirmation of the significance of politics, the making of policy, and the importance of state governance in Australia's federal system.

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# Western Australia

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## Key terms/names

*Constitution Act 1889 (WA), Constitution Acts Amendment Act 1899 (WA), Electoral Act 1907 (WA), Federation, secession, Western Australian Constitution Act 1890 (UK)*

This chapter furnishes an overview of the political history of Western Australia (WA), explores the state's relationship to the federation and outlines its key constitutional, political and electoral features. It is argued that while WA shares much in common with its federal counterparts, there are several areas of difference that continue to shape its relationship to the federation.

## European settlement

Indigenous peoples inhabited the territory of what is now WA for many millennia before the official establishment of the Swan River Colony, in June 1829, by British legislation introduced the month prior. The British view of this land at that time has been described as: an area 'that had been known to the Europeans longer than any other part of the continent and was the least wanted'.<sup>1</sup> British settlement was

Miragliotta, Narelle, Sarah Murray and Justin Harbord (2019). Western Australia. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Bolton 2008, 5.



ultimately a pre-emptive response to concerns about French colonial ambitions in the western half of the continent.

The particular circumstances that led to the colony's founding by the British would shape its developmental arc for the first five decades of settlement. The British showed little appetite to invest in the nascent colony, which hampered WA's economic growth for several decades and undermined the business case for self-government.<sup>2</sup> Moreover, well into the first half of the 1880s, there was little urgency for responsible government among WA's elites, who feared that mass enfranchisement would weaken their privileged grip over colonial society.<sup>3</sup>

When WA did attain self-government, it did so a number of decades behind the other original colonies. Self-government of the colony became effective from 21 October 1890, with the UK parliament's enactment of the *Western Australian Constitution Act 1890* (UK), to which was scheduled the *Constitution Act 1889* (WA) (CA).

The achievement of self-government was not without tribulation. On some views, the colony could have asserted responsible government unilaterally; however, it opted to petition the Imperial parliament in order to ensure its control over crown lands. Unlike its colonial counterparts, any declaration of responsible government, while arguably constitutionally possible, did not come with an automatic claim to unused crown lands. The Imperial powers reckoned that the small size of the colony's population, concentrated in the south-west corner, rendered it inadequate to the task of managing the vast territory that it sought to govern. The Imperial authorities also held a well-founded view that the colony could not be trusted to respect the dignity and liberty of Indigenous peoples.<sup>4</sup>

For these reasons, the eventual grant of self-government by the Imperial parliament was encumbered by several conditions: a nominated upper house, constitutional protections for native inhabitants of the colony in the form of the now redundant section 70,<sup>5</sup> and retention of crown lands above the 26-degrees-south line of latitude in the hands of the British government. While the compromises were reluctantly agreed to by the colony, the outcome was nevertheless hailed as a triumph of 'the cherished birthright of Englishmen'.<sup>6</sup>

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2 Moon and Sharman 2003, 184.

3 Curthoys and Martens 2013, 130.

4 Martens 2016.

5 The British were under no illusions about the brutal conduct of many of the colonists towards Indigenous people and sought to secure some protections for them when WA became self-governing. This came in the form of section 70, which specified: 'There shall be payable to Her Majesty, in every year, out of the Consolidated Revenue Fund the sum of five thousand pounds mentioned in Schedule C to this Act to be appropriated to the welfare of the Aboriginal Natives, and expended in providing them with food and clothing when they would otherwise be destitute, in promoting the education of Aboriginal children (including half-castes), and in assisting generally to promote the preservation and wellbeing of the Aborigines.' However, the Imperial parliament's commitment to the survival of section 70 was weak and by 1897 the provision was radically amended. See Curthoys and Lydon 2016.

6 Martens 2016, 41.

## Federation

The elation of achieving self-government was, however, quickly overshadowed by the inexorable march towards Federation. WA faced the spectre of having to relinquish its newfound independence before it had a chance to exercise it fully. Compounding WA's apprehension was the fact that almost half of its revenue was drawn from intercolonial tariffs. The new federal Constitution would make trade, commerce and intercourse among the states 'free', thereby undercutting an important revenue source for WA.<sup>7</sup>

WA did eventually vote to enter the federation, with the initiative obtaining nearly a 70 per cent 'yes' vote on 31 July 1900. However, the question was only presented to the people as a result of intervention by colonial authorities. In order to counter the recalcitrance exhibited by WA's political elite, colonial authorities adopted a carrot and stick approach. The carrot took the form of a deal to address the colony's financial anxieties, while the stick was the threat to annexe the colony's lucrative goldfields.<sup>8</sup>

WA's sluggish acceptance of its political fate meant that the vote on the question of Federation occurred 22 days after the enactment of the *Commonwealth of Australia Constitution Act 1900* (UK), but in time for the commencement of Federation on 1 January the following year. WA's initial reticence is captured in the preamble of the federal Constitution, which omits WA as one of the parties that 'have agreed to unite in one indissoluble Federal Commonwealth'.

The state's ambivalence towards the federation has remained a distinctive feature of its history and its identity. Some regard WA's tentativeness as pathological, with one former state government minister arguing that one need only '[s]cratch a Western Australian and you find a secessionist underneath'.<sup>9</sup> At various points in time, WA's feelings of grievance have found expression in the call for secession.

The most serious of such efforts occurred in 1933, when WA, reeling from the Great Depression, voted to secede from the federation. The plebiscite obtained over 50 per cent of the electorate's support.<sup>10</sup> While the government of the time, led by Premier Collier, dutifully – if reluctantly – petitioned the Imperial parliament for relief, its refusal to hear the matter led to the supplication being dropped.<sup>11</sup> It was the position of the Imperial parliament that it would be unconstitutional for the state to secede without federal parliamentary support.<sup>12</sup>

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7 Musgrave 2003.

8 Musgrave 2003.

9 Quoted in Taylor 2015, 2.

10 Besant 1990.

11 Bolton 1993.

12 Besant 1990.

There have been intermittent calls for WA to consider its future outside of the federation.<sup>13</sup> While the political class have generally been careful not to utter the 's(ecession)' word, they have come close at times. In 2015,<sup>14</sup> the premier warned that WA's 'future' might not 'lay with the rest of Australia in a financial or economic sense', with the state facing its 'Boston tea party moment'.<sup>15</sup>

#### WA and the federation today

While WA's testy relationship with the federation has led to it being labelled by scholars as the 'reluctant state',<sup>16</sup> others have questioned whether secessionist sentiments have ever truly reflected a genuine intention to renounce the federation.<sup>17</sup>

It is, perhaps, overly simplistic to interpret secession rhetoric as a quirk of WA's political culture or a provocation to extract concessions from the Commonwealth. Such claims are better understood as an 'expression of the powerlessness felt by the residents' who perceive themselves to be on the periphery of political power.<sup>18</sup>

Several factors conspire to fuel WA's grievance. The first emerges from fiscal demands arising from the state's geography and demography. WA occupies 33 per cent of the continent, covering a total area of 2.5 million square kilometres, with a population of 2.47 million people. It is the second least densely populated region in Australia, behind the Northern Territory.<sup>19</sup> And while the majority of the population is urbanised, 23 per cent of its residents are located in regional areas, in 'some of the least hospitable places on Earth'.<sup>20</sup> This includes estimates of 12,000 people living in 274 remote Indigenous communities.<sup>21</sup>

WA's nine regions are vital to the economic health of the state and the federation.<sup>22</sup> In 2017–2018,<sup>23</sup> for example, WA accounted for 42 per cent of Australia's merchandise exports, the bulk of which was generated from natural resources and agricultural production derived from its regions.

13 Over the years, secessionist calls have emerged from several quarters. In the 1970s, mining magnate Lang Hancock bankrolled the Westralian Secession Movement. More recently, in 2016, the Western Australia Party was established for 'the sole purpose of representing the people of WA to get a better deal from Canberra' (<https://westernaustraliaparty.org.au/about-us>).

14 This was not the first of such calls in recent times. In 2011, Norman Moore, then state minister for the regions, proposed that 'WA should give some thought to going it alone' (Gallo 2011).

15 Burrell 2015.

16 Reid 1979; Zimmerman 2011.

17 Bolton 1993; Sharman 1993.

18 Hiller 1987; Sharman 1993.

19 ABS 2016.

20 CEDA 2016, 11.

21 Regional Services Reform Unit 2016.

22 CEDA 2016, 13.

23 Department of Jobs, Tourism, Science and Innovation 2019.

However, the state's size, population dispersion and the physical diversity of its regions generate significant governance demands.<sup>24</sup> In 'lacking economies of scale', the regions present 'multiple challenges, especially in terms of inadequate infrastructure provision and service delivery',<sup>25</sup> that are not confronted by WA's counterparts to the same extent.<sup>26</sup> The WA government must spend significantly more per capita on delivering an average level of services to ensure that all Western Australians enjoy a comparable standard of living to their counterparts across the federation.<sup>27</sup>

The second factor that complicates WA's relationship to the federation is the 'tyranny of distance'. WA's capital is closer to Jakarta than it is to Canberra, and it does not share a time zone with any of its federal cousins. Easement of the physical obstacles of distance from the eastern seaboard was slow to occur.<sup>28</sup> While contemporary innovations in communication and transportation have removed the effects of geographic isolation to a great extent, the perception that remoteness equates to political invisibility endures.

Pre-Federation WA politicians were aware of the challenges that distance would present for the state's visibility in the Commonwealth.<sup>29</sup> Moreover, the usefulness of the federal parliament for channelling the state's grievances quickly proved ineffectual. WA's representation in the federal lower house was, as it is today, diminutive (10 per cent of the total share) owing to its small population, while the party politicisation of the Senate quickly extinguished its role as a genuine states' chamber.

A third factor that challenges harmonious relations with the federation is economic differences. From its inception, the structure of the WA economy was

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24 Concerns about neglect of the regions led to the Royalties for Regions scheme in 2008. The scheme was the result of a political bargain struck between the Nationals and the Barnett Liberal government following the 2008 state election. Under the agreement, the Barnett government agreed to transfer 25 per cent of all royalty payments to the state for reinvestment into regional WA. The McGowan Labor government, elected in 2017, has retained the program but capped annual spending at \$1 billion. The McGowan government's announcement followed the conclusion of a special inquiry into the program which criticised it for operating outside of the state's budget and destabilising WA's finances (McNeill 2018).

25 CEDA 2016, 24.

26 It was also attributed to longstanding tendencies towards 'government driven development', the high point of which was the infamous 'WA Inc.' affair when the secretive and procedurally suspect commercial activities of the Burke Labor government (1983–86) led to the loss of hundreds of millions of dollars of WA taxpayers' money. In its aftermath, the Richard Court government embarked on reform of state utilities and government practices, ostensibly to disrupt the longstanding public policy paradigm (Stone 1993).

27 CGC 2015, 3–4.

28 Moon and Sharman 2003, 203–4.

29 As one member of the WA parliament then opined: 'Our only connection with the other colonies is by the intervening stormy sea, and the distance from Albany to Adelaide is the same, some 1150 miles ... We shall be situated at such a distance from the seat of Government that I do not think we can expect that consideration for our wants and requests which we would be entitled to' (Parker quoted in Bolton 1993).

distinct from the more populous ‘manufacturing’ eastern states. WA’s economy has depended heavily on exports, principally agricultural commodities and resources. This has meant that economic decisions that benefit the eastern economies have not always aligned with WA interests.

One of the earliest indications of how economic differences could prompt a misalignment of policy preferences between WA and the federal government occurred with the introduction of a federal tariff in 1902. While the tariff was a boon for the eastern states, it represented a grave economic liability for the import-dependent west.<sup>30</sup>

In more recent times, the federal government’s efforts to tax profits on non-renewable resources reignited disaffection. The first iteration, the ill-fated Resource Super Profit Tax (RSPT) proposed by the Rudd national government in 2010, was perceived as imposing a disproportionate burden on the WA economy. As then-Premier Colin Barnett argued:

With 65 per cent of this revenue coming from Western Australia, it was ... an attack on the mining industry and on our resource income base. People talk about these resources belonging to all Australians. Well, constitutionally, they don’t. They belong to the people of each state.<sup>31</sup>

The second coming of the mineral tax, the Minerals Resources Rent Tax, while a watered-down version of the RSPT, was similarly unwelcomed by the WA government. When the tax was finally implemented in 2012, the WA government increased mining royalties, which miners could offset against the federal tax. This action reduced the federal take of the tax by \$160 million annually,<sup>32</sup> thus prompting a threat from the Commonwealth to withhold infrastructure funding from WA.<sup>33</sup>

The sense of disenfranchisement has been magnified by the belief that the Commonwealth has exploited the state’s resource-rich economy without fair recompense. The consequences of WA’s booming resource economy have collided with fiscal equalisation arrangements that are slow to adjust to changes in the economic fortunes of the states.

WA’s concerns assumed particular urgency when the Commonwealth Grants Commission (CGC) recommended, in 2015, that WA’s share of Goods and Services Tax (GST) revenue be reduced from 37 per cent of the per capita average to 30 per cent. The CGC justified its recommendation on the grounds that ‘Western Australia can raise so much more per capita in mining royalties at average rates, other things being equal ... its capacity to raise revenue from most other tax bases is also above average, implying it requires less GST’.<sup>34</sup> However, the CGC’s

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30 Musgrave 2003, 99.

31 Quoted in Kelly 2010

32 Ker 2011.

33 The federal mining tax was repealed in 2014.

34 CGC 2015.

recommendation occurred at a time when WA's economic fortunes were stalling due to falling iron ore prices. The sense of grievance was intensified when the Commonwealth sought to exploit the situation to compel WA to implement far reaching reforms in exchange for financial relief.<sup>35</sup>

However, the source of much of WA's disgruntlement can ultimately be traced to the expansionist tendencies of the Commonwealth. Very quickly, it has been argued, the federation collapsed into an arrangement that is more 'centralised than was ever envisaged or intended, indeed one of the most centralised of all true federations'.<sup>36</sup>

The failures of the original design, judgements of the High Court and the Commonwealth's willingness to use its financial clout to encroach into state policy areas has led to what one former premier has described as the 'smothering of the states'.<sup>37</sup>

### Constitutional overview

Prior to 1890, the colony was under British control, with a locally residing governor, the first being Captain James Stirling. While it had a Legislative Council of 18 men, of which six were appointed and the remainder elected, its enactments had to be reserved for Her Majesty's pleasure, and the extent of executive power forestalled responsible government in the colony.

The enactment of the CA brought about a fully elected Legislative Assembly and, initially, an appointed Legislative Council, which also became an elected body in 1893, prior to the six-year limit allowed for by section 6 of the Act.<sup>38</sup>

Within a decade, amendments to the franchise and the Council and Assembly were proposed by the colony's first premier, Sir John Forrest. While initially taking the form of amendments to the CA, it was eventually determined that a separate and distinct constitutional enactment should be introduced.<sup>39</sup> To this day, WA

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35 Fenna 2015a. In 2018, the Morrison federal government announced a 70 per cent floor in the GST dollar to begin in 2022–23, increasing to 75 per cent in 2025 (Laschon 2018). While the WA treasurer, Ben Wyatt, welcomed the reform, he rejected that it was a 'windfall', reasoning that 'A windfall would suggest that WA had somehow won the lotto, got some money that it doesn't deserve or money unexpectedly that for some reason wasn't, or shouldn't have, come to Western Australia' (Perpitch and Laschon 2018).

36 Fenna 2015b.

37 Burrell 2018. It is important to note that WA's constitutions, as with all of the original states, retained their constitutional status post-Federation with sections 106–108 preserving state constitutions, parliamentary powers and enactments, subject to the dictates of the Commonwealth Constitution. However, several High Court judgements, in expanding the scope of the national government's policy competency, have largely eroded the sphere of the states' activities.

38 Murray and Thomson 2013, 22.

39 While there are differing explanations for this departure from consolidating the amendments, it is likely that it avoided the possible activation of the provision in the CA 1889 which potentially required an absolute majority in both the Assembly and Council, rather than a simple majority, for some amendments to the text of the CA 1889. For more, see Miragliotta 2003, 157; Murray and Thomson 2013, 27–8.

retains two unconsolidated constitutional enactments: the CA and the *Constitution Acts Amendment Act 1899* (WA).

A little over a century later, the state's colonial apron strings were loosened with the passage of the *Australia Acts 1986* (Cth and UK). These dual enactments meant that the British parliament no longer had legislative powers over the states, repugnant legislative restrictions were removed and the avenue of appeal from the state Supreme Courts to the Privy Council was abolished.

In 2015, the preamble to the CA was amended to 'acknowledge the Aboriginal people as the First People of Western Australia and traditional custodians of the land', followed by the statement that the WA parliament 'seeks to effect a reconciliation with the Aboriginal people of Western Australia'.

#### Key government institutions

The *Australia Acts 1986*, although releasing Imperial legislative control, retained the role of the monarchy in the state governmental structure. The state governor was 'Her Majesty's representative' (section 7[1]) although slight alterations were made to the governor's office and it was set out that advice to the monarch was to be 'tendered by the Premier' (section 7[5]).

The governor's role includes ceremonial as well as constitutional functions, such as assenting to legislation, proroguing parliament, issuing electoral writs, chairing the Executive Council (which makes official governmental decisions) and making governmental appointments.<sup>40</sup> In almost all instances, the WA governor acts on advice, unless rare circumstances arise to justify the exercise of the governor's reserve powers.

The present Assembly contains 59 members with a maximum four-year term, and the Council has 36 members, drawn from six electorates, with a fixed four-year term. The premier leads the party with a majority in the Assembly and presides over ministerial decisions made by the Cabinet. There can be up to 17 state ministerial positions, and one must be filled by a member of the Council.

The WA parliament has plenary legislative power to make 'laws for the peace, order and good government' of the state,<sup>41</sup> including the ability to enact extra-territorial laws. While there are some express constitutional limits on its power through the terms of the Commonwealth Constitution, the High Court of Australia, since Federation, has also determined that some implied legislative limits exist.<sup>42</sup> Further, the CA includes restrictive procedures that seek to make it more

40 'Letters patent' 1986.

41 CA, section 2(1).

42 These include intergovernmental immunity (*Re Residential Tenancies Tribunal (NSW); ex parte Defence House Authority* (1997) 190 CLR 410) and the implied freedom of political communication (*Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520; *McCloy v New South Wales* (2015) 257 CLR 178).



difficult for the parliament to enact or amend particular laws by standard legislative procedures (Bills must be passed by absolute majorities or referendum, or both). While such provisions will not always be binding on a later parliament and require a suitably authoritative source to be so, they seek to apply to Bills that, for example, abolish the Council or Assembly, alter the office of governor or seek to amend the restrictive procedures themselves.

The state courts, comprised of the Supreme Court, the Magistrates Court, the District Court, the Children's Court and the Family Court, although not formally independent from the legislative and executive arms, enjoy a de facto separation by convention. This is also protected to an extent by the integrated court structure that chapter III of the Commonwealth Constitution contemplates for 'courts of a State' and by the constitutional role vested in the Supreme Court of WA by the CA in section 73(6).<sup>43</sup>

Other governmental agencies, sometimes referred to as the fourth arm or integrity arm, include the Corruption and Crime Commission, the Auditor-General, the Parliamentary Commissioner for Administrative Investigations (the WA Ombudsman), the Commissioner for Public Sector Standards and the Office of the Information Commissioner. These offices jointly comprise the 'Integrity Coordinating Group' of WA.<sup>44</sup>

#### Electoral law

WA operates under the oldest electoral legislation in Australia, with the current statute, the *Electoral Act 1907* (WA), passed during the reign of Edward VII. While many of the original provisions of the primary Act remain in force, it has been significantly updated in response to changing societal and political norms (see Appendix).

#### *The franchise*

The initial entitlement to vote in elections was based on a property franchise for those electors over 21 years of age, with the result that mostly white males met the qualification. While the property qualification was extinguished for the Assembly by 1907, an indirect property privilege prevailed until 1923 in that voters with property holdings in multiple electorates were entitled to vote in each of those districts. The property franchise remained for the Council until 1962.<sup>45</sup>

Women were granted the vote in the Assembly in 1899, making WA second only to South Australia (SA) to confer women's suffrage. It was also the first state to elect a woman to parliament: Edith Cowan in 1921. The extension of suffrage

43 Johnston 2010, 101.

44 Creyke 2012, 37.

45 Phillips 2013, 3–5.



to Aboriginal people on fully equal terms was not achieved until 1962. Initially, enrolment and voting were optional for Aboriginal electors, even though voting was compulsory for non-Indigenous electors from 1936.

#### *Fixed-term elections*

Prior to the 2000s, the government had the power to call an election at any time of their choosing, provided they did not exceed the maximum length of the term of parliament. However, by 2011 a cross-party consensus that this privilege afforded the government an unfair electoral advantage had emerged, leading to calls to introduce fixed-term elections.<sup>46</sup> Since this time, general elections have been held every four years on the second Saturday in March.

#### *Electoral boundaries and 'one vote, one value'*

Prior to 1947, decisions regarding the state's electoral boundaries were subject to ratification by parliament. However, the *Electoral Distribution Act 1947* (WA) changed this and formalised the criteria to be considered when determining boundaries. This Act remained in force until the 'one vote, one value' reforms were introduced in 2005, removing vote weighting in the Assembly by no longer specifying the number of metropolitan and country districts.

The challenge of balancing geography and demography when drawing electoral boundaries has been particularly contentious in WA, so much so that it was the last state to remove the zonal system, whereby country electorates averaged half the number of voters in metropolitan electorates. While this system was designed to compensate remote and regional areas for the challenges afforded by distance, it meant that country electorates could have 3–4 times fewer electors than metropolitan counterparts.

The principle of 'one vote, one value' was eventually secured by the Gallop Labor government with the passage of the *Constitution and Electoral Amendment Bill 2005* (WA). Prior to this time, Labor's efforts to introduce 'one vote, one value' legislation had been unsuccessful because the conservative parties, the beneficiaries of the zonal system, had enjoyed uninterrupted control of the Council and were able to block such reforms.

In spite of this, WA electoral law continues to make allowances for larger electorates in recognition of the challenges of representing such a broad area. A large district allowance provides for districts larger than 100,000 square kilometres to have a nominal increase in elector numbers based on 1.5 per cent of the area

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<sup>46</sup> Constitutionally, however, such a change to the law required absolute majorities of both houses and a referendum. To get around these provisions, legislation was introduced that provided that, for conjoint elections, there were set dates when the writs were to be issued. This achieved the desired outcome without extinguishing the governor's entitlement to prorogue or dissolve parliament (Congdon 2013).

of the district. Furthermore, such electorates are permitted to be more than 20 per cent lower than the average district allowance, compared to all other districts, which must be within a 10 per cent tolerance.

Since 2005, the state's electoral boundaries are determined by the three electoral distribution commissioners: a current or former Supreme Court judge (chair), the electoral commissioner and the government statistician.

#### *Electoral systems*

As is common to bicameral parliaments, WA's two chambers are elected under different electoral systems.

At the inception of responsible government, elections for the Assembly were conducted under first-past-the-post (plurality), combined with single-member electoral districts. In 1907, plurality was replaced with optional preferential voting (OPV), making WA the first Australian jurisdiction to introduce this method. In response to concerns from non-Labor parties about preference losses in three-way electoral contests, full preferential voting was adopted in 1911.<sup>47</sup> This system remains in force today.

Elections for the Council occur under proportional representation using the single transferrable vote (PR-STV), introduced in 1987.<sup>48</sup> The present system superseded the 1965 regime, comprised of two-person electorates with staggered six-year terms, conducted under full preferential voting.<sup>49</sup>

#### *Campaign finance and public funding*

Campaign finance restrictions were initially introduced in WA in 1904, in the form of election expenditure caps on candidates. But it was not until 1996 that a more comprehensive scheme was adopted, with requirements for an annual disclosure of donations and electoral expenditure by parties and associated entities. The current disclosure threshold is \$2,500.<sup>50</sup>

Public funding of elections was introduced in 2006. Under the provisions, candidates can apply to be reimbursed for electoral expenditure they incurred if they secured more than 4 per cent of first preference votes (at \$1.92713 per vote as at 1 July 2019).

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47 Phillips 2013.

48 The original form of PR-STV used the 'inclusive Gregory method' to transfer unused ballot papers, or a portion thereof, won by elected candidates. This was amended to the 'weighted-inclusive Gregory method' in order to address an anomaly where a transferred ballot paper could potentially increase in value to more than one vote (Miragliotta 2002).

49 Phillips 2013.

50 In comparative terms, WA's disclosure threshold as at 2019 is higher than most other comparable jurisdictions except SA (\$5,191) and the Commonwealth (\$13,800).

## Parties and the party system

The core elements of WA's modern party system had emerged by 1914. Prior to this time, elections and parliament were largely the preserve of 'notables', who formed loose groupings in parliament. The formation of the Australian Labor Party (Labor) in 1902 radically altered this dynamic. Created to represent newly enfranchised workers and unionists, Labor quickly developed into a disciplined electoral party, enabling it to dominate the contest for government for much of the period until the late 1950s.<sup>51</sup>

Labor's organisational and political successes triggered the mobilisation of the Liberal and National (formerly Country) parties. While a group claiming to represent business interests used the 'Liberal' label in 1911, it was not until the establishment of the federal Liberals in 1944 that the WA Liberals acquired the organisational discipline to emerge as the major non-Labor rival. For much of the period from the late 1950s until the 1980s,<sup>52</sup> the Liberals dominated government, although, since this time, they have alternated with Labor in office. In the nine elections held since 1986, the Liberals have held government on four occasions, and Labor five times.

While the Liberals were slow to institutionalise, the Nationals had established robust organisational underpinnings by 1914. The party was able to leverage its close relationship with rural interests, along with its organisational structures, to become a competitive conservative party. However, similar to divisions of the National Party elsewhere, the WA Nationals have been under intense pressure from demographic changes, structural change to the economy, electoral reforms and competitive pressures from the Liberals.<sup>53</sup> At various times, this has led to internal fracture and the existence of two separate rural parties in the state.<sup>54</sup>

Acrimony within the Nationals has also affected the party's ties with the Liberals. There have been two key inflection points in the relationship between the conservative parties, the first of which was between 1978 and 1986, when the coalition disbanded. The second, and present, opened up in 2006, when the Nationals abandoned the coalition to pursue a looser post-election 'partnership' with the Liberals, in which they sought ministries and funding commitments in exchange for supporting the Liberals in office. While some scholars have declared the Nationals' latest strategy a triumph,<sup>55</sup> it is unclear whether this tactic will ultimately be sufficient to save the party from demographic forces over which it has no control.

Prior to the 1990s, the Council overwhelmingly favoured the election of members from the three major party groupings, and the conservative parties more particularly.

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51 de Garis 1991.

52 Black 1991.

53 Moon and Sharman 2003.

54 Gallop and Layman 1985.

55 Phillimore and Mahon 2015.

Between 1911 and 1993, election of persons entirely unconnected to one of the three longstanding party groupings was a novel occurrence. However, in the seven elections held since 1993, 33 independents and non-major parties have gained election. PR-STV is credited with facilitating the election of ‘other’ electoral actors to the Council and breaking the almost exclusive monopoly held by the three oldest parties in the chamber. The most successful of the newer entrants has been the WA Greens, which elected its first member to the Council in 1993 and has managed to elect between two and five members of the Council at every election since.

## Conclusions

WA’s formative historical experiences, its economy and its geography have made it a sometimes-disgruntled member of the federation. But WA has more in common, politically and culturally, with other units within the federation than it does differences. Its grievances have been fiscal, as against identity-based, with the result that outpourings of disaffection have ebbed and flowed with prevailing economic circumstances.<sup>56</sup> These grievances aside, WA is an integral constitutive unit of the federation.

## Appendix: timeline of key changes to elections in WA since 1890

|      |  |
|------|--|
| 1890 | Creation of Legislative Assembly (LA) with four-year terms. Members of Legislative Council (LC) nominated by the governor until 1893. Plural voting with property qualification. |
| 1893 | Voting extended to male British subjects over 21 years of age. Property qualification continued. Optional enrolment.   |
| 1899 | Adult suffrage. Women awarded the vote in LA.  |
| 1900 | Payment of members and triennial terms.  |
| 1904 | Plural voting abolished.   |
| 1907 | Current Electoral Act passed. Preferential voting introduced.  |
| 1911 | Full preferential voting introduced.   |
| 1919 | Compulsory voting for the Assembly.  |
| 1920 | Women became eligible to be MLAs.  |
| 1921 | Edith Cowan elected as first woman in LA.  |

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<sup>56</sup> Lecours and Béland 2018.

|         |  |
|---------|--|
| 1922    | Independent electoral distribution commissioners to determine electoral boundaries. Decisions ratified by parliament.  |
| 1936    | Compulsory voting introduced for LA.   |
| 1939    | First parliamentary election with compulsory voting.   |
| 1947    | New distribution legislation – three commissioners, country ‘vote-weighting’ and no ratification of decisions by parliament.   |
| 1954    | Ruby Hutchison elected as first woman in LC.   |
| 1962    | Voluntary enrolment and voting for Indigenous people. LC franchise extended to include spouses, but property qualification remained. Women gained the vote in the LC.                      |
| 1963–64 | Adult franchise introduced for the LC with removal of the property qualification. Voting entitlements for both houses became identical. Enrolment and voting for the LC made compulsory.   |
| 1970    | Voting age reduced to 18 years.  |
| 1975    | Restrictions on clergymen standing for election were abolished.  |
| 1978    | Reduction in number of members of either house now only by referendum.   |
| 1980    | First Indigenous MP – Ernie Bridge – elected, later became first Indigenous minister.  |
| 1983    | Joint enrolment procedure introduced for Commonwealth/state enrolment. Enrolment and voting became compulsory for Indigenous people. Australian citizenship became a requirement to enrol. |
| 1987    | WA Electoral Commission established. Four-year term for MPs. Multi-member regions introduced in LC to replace provinces. LC voting changed to PR-STV.                                      |
| 2000    | Funding and disclosure law introduced. Party registration law introduced.  |
| 2005    | One vote, one value. Distributions in Electoral Act.   |
| 2006    | Nomination qualifications – citizenship. Overseas voting expanded. Authorisation of online advertising.  |
| 2009    | Itinerant voting introduced.   |
| 2011    | Fixed election dates.  |
| 2016    | Federal direct enrolment and update introduced. Internet voting for a limited cohort of electors. Early voting – removal of reasons.   |

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# Local government

Roberta Ryan and Alex Lawrie

## Key terms/names

amalgamation, local government, multi-level governance, outsourcing, own-source revenue, performance management, place shaping, public–private partnership, public value, service delivery, subsidiarity

As a place-based layer of government, local governments around the world are diverse. They operate within and respond to unique regulatory contexts and circumstances, and mould the socio-economic development of the places they govern. Within Australia, the legislative foundations of local governments and their characteristics, governance, funding and reform agendas differ across jurisdictions. While this diversity makes it difficult to develop a shared understanding, a range of common challenges shape local governance.

This chapter reviews some of the contemporary challenges facing Australian local governments. It begins with a discussion of the legislative foundations and selected characteristics of local governments across Australia, their governance and funding, and recent reform agendas. Next, public service delivery is considered, and the emergence of place shaping as a concept guiding local governments in the delivery of public services is examined. The chapter then discusses a range of challenges for local governments in meeting rising community expectations of public services and an expanded service-delivery task. Frameworks and methods for measuring local government service-delivery performance are then presented.

Ryan, Roberta, and Alex Lawrie (2019). Local government. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

Finally, the chapter concludes with a brief discussion applying the concept of public value to the evolving service-delivery task of Australian local governments.

#### Local government and Australia's system of government

Australia is a federation with three levels of government: Commonwealth (national), state and territory (regional) and local governments. Australia's system of local government is mostly established through the separate constitutions of each state and territory. There are, in effect, seven different systems across the country. Indeed, local governments are often referred to as 'creatures of state governments'.<sup>1</sup>

Unlike other countries, local governments are not recognised in Australia's national Constitution. A 1988 referendum to change this was defeated, and campaigns for another referendum have not been successful.<sup>2</sup> However, local governments are still represented at Australia's chief intergovernmental forum, the Council of Australian Governments.<sup>3</sup>

Their legislative foundations mean local governments occupy a somewhat tenuous position in the federation. Many of their powers and responsibilities are subordinate to state and national governments, and there is often significant overlap between their responsibilities and those of state governments. These foundations also place a range of constraints on local government service delivery. For instance, the validity of higher levels of government funding local government service-delivery activities has been challenged in the High Court.

#### *Number, size and type of local governments*

Australia's earliest local governments were established in Perth in 1838, Adelaide in 1840 and Sydney in 1842. These were incorporated to provide town improvement services, such as street lighting, for early colonial capitals. Other local governments started as collectives of ratepayers formed to provide services to their properties.<sup>4</sup> Over the next 70 years, the number of local governments grew to over 1,000. Today, there is just over half that number, although this often changes as local governments are impacted by ongoing structural reform.<sup>5</sup>

Like Australia's states and territories, the 537 local governments across the country vary substantially in population size, land area and economic dominance. The largest by population is Brisbane, with over 1.2 million residents, while the smallest, in rural Western Australia (WA), has just a few thousand residents. The largest by land area is East Pilbara in WA, which covers 380,000 square-kilometres,

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1 Larcombe 1978; Stilwell and Troy 2000.

2 Stilwell and Troy 2000.

3 Phillimore and Fenna 2017.

4 Larcombe 1978.

5 Dollery and Grant 2010.

while the smallest is Peppermint Grove, which covers just 1.5 square-kilometres at the centre of Perth.<sup>6</sup> Australia's local governments employ almost 200,000 people; around 100 of these councils are the largest or second largest employer in their local area.<sup>7</sup>

Local governments across Australia are typically referred to as 'councils', 'cities' or 'municipalities' in urban areas, and 'shires' or 'towns' in rural and remote areas. 'County councils' are incorporations of two or more local governments established to deliver services, such as water, across rural areas.<sup>8</sup> The entire Australian land mass is not covered by local government areas. Some remote 'unincorporated' areas are administered by state and territory governments. The Australian Capital Territory – the seat of Australia's national government – does not have a formal system of local government, and local services are delivered by the territory government.

Most capital city councils have their own legislation that provides expanded powers for these local governments.<sup>9</sup> For example, the *City of Brisbane Act 2010* (Qld) allows the lord mayor to prepare a budget for approval by the elected council and allows councillors to be assigned a portfolio such as transport or community services. In contrast, in non-capital city councils, the general manager or chief executive officer prepares the budget for approval by council. The *City of Sydney Act 1988* (NSW) establishes voting rights for central business district businesses, whereas businesses in non-capital councils do not have voting rights.<sup>10</sup>

#### *Functions and governance*

The functions of Australia's local governments have expanded in the postwar era to include a more diverse and complex range of economic, social and environmental services, such as child care and youth services, libraries and aquatic centres, economic development, environmental management and community health.<sup>11</sup> Local councils are governed by elected councillors, who form the official governing body, and an operational executive, led by a general manager or CEO, responsible for day-to-day functions such as corporate governance and finance, community services, assets and engineering, and planning and environment. Councils have a high degree of flexibility in the organisational structures they choose to adopt. Whilst these executive portfolio areas are fairly common, they can differ between councils.

The responsibilities of councillors and mayors differ across the states and territories, depending on the legislation establishing the local government system

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6 Australian Local Government Association 2018.

7 Ryan, Lawrie and Hastings 2014.

8 Larcombe 1978.

9 Larcombe 1978; Spearritt 2000.

10 Ng et al. 2017.

11 Australian Local Government Association 2018.

in each jurisdiction. Generally, councillors act as formal decision makers and approve strategic plans, policies and budgets prepared by the executive. They are also responsible for appointing and overseeing the performance of the general manager/CEO in accordance with an employment contract.<sup>12</sup> The mayor is typically a ceremonial figure, although there are differences here too. For example, mayors in Queensland are mostly directly elected and have wide powers to prepare major policies and budgets. In contrast, many metropolitan mayors in New South Wales (NSW) are indirectly elected and share responsibility for major policies and budgets with councillors and general managers.<sup>13</sup>

### *Funding*

Australia has a high level of vertical fiscal imbalance compared to other countries.<sup>14</sup> This means the level of government that collects revenue to fund services is often not the level responsible for delivering them.<sup>15</sup> In Australia, the national government collects the most revenue from taxation (over 70 per cent) but is responsible for less than half (about 40 per cent) of all public sector expenditure on service delivery.<sup>16</sup> To remedy this situation, Australia uses a complex system of inter-governmental transfers to reallocate national revenues to and between state, territory and local governments.<sup>17</sup> A formula of horizontal fiscal equalisation is then used to ensure that, at least theoretically, all governments have the financial means to provide similar levels of service to their communities.<sup>18</sup>

Local government is the most evenly matched level of government in Australia in terms of the tax revenue it collects and the amount it spends on services. However, local governments are increasingly handed ‘unfunded mandates’ as higher levels of government transfer responsibility for service delivery to them without transferring revenue or providing new revenue powers to fund these services.<sup>19</sup> Nationally, local governments collect about 3 per cent of all tax revenues and are responsible for about 6 per cent of total public sector expenditure on service delivery.<sup>20</sup> Of the \$17 billion in revenue they collect annually, property rates account for about 40 per cent.<sup>21</sup> Australia’s local governments hold around \$400 billion in assets and infrastructure.<sup>22</sup> Housing and community amenities (24 per cent), transport and communication (22.5 per cent) and general public

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12 Office of Local Government n.d.

13 New South Wales Electoral Commission 2019.

14 OECD 2014.

15 Charbit 2006.

16 ABS 2018.

17 Phillimore and Fenna 2017.

18 Stilwell and Troy 2000.

19 Charbit 2006.

20 Australian Local Government Association 2018.

21 ABS 2018.

22 Australian Local Government Association 2018.

services (17.2 per cent) are the main expenditure items, although the amount local councils spend on each function varies depending on the different responsibilities of councils in each state and territory.

Because property rates are their main revenue source and state governments use different methods to calculate the land values on which property rates are based, local government revenues vary substantially across Australia. For example, South Australian local governments collect 60 per cent of their revenue from rates, compared with around 15 per cent for the Northern Territory.<sup>23</sup> Other major revenue sources include fees and charges (such as parking fines and fees for lodging development applications), rental income from properties and grants from other levels of government.

Capital city councils that include central business districts also often have higher land values, which means they collect more from rates than other councils and can deliver more advanced services.<sup>24</sup> For example, Brisbane City Council operates one of Australia's largest bus fleets, whereas state governments operate buses in other jurisdictions.<sup>25</sup> While own-source revenue (such as rates) comprises up to 85 per cent of a local government's revenue,<sup>26</sup> this is less in rural areas where rateable land values are often lower.

Local governments also receive annual and one-off grants from higher levels of government. These grants typically make up a larger share of revenue for rural local governments.<sup>27</sup> A range of criteria are used to determine the grant amounts, and the formula is often the subject of conflict. Annual grants are classed as general purpose and can be used for whatever activities a council desires, while one-off grants are typically for specific purposes and can only be spent on activities defined by national or state and territory governments.

In recent decades, the amount of revenue Australia's local governments can raise from property rates has been capped by some state governments. This increasingly common practice has been a subject of conflict between local and state governments, and some local governments have been granted special exemptions.<sup>28</sup>

### *Reform*

Reforms to Australia's local government systems in recent decades have focused largely on structural and governance issues, such as altering administrative boundaries, amending codes of conduct and land use planning decision making.<sup>29</sup> For example, in the 1990s, the Victorian government dismissed all local governments

23 Independent Pricing and Regulatory Tribunal 2009.

24 Spearritt 2000.

25 Brisbane City Council 2019.

26 Productivity Commission 2017.

27 Worthington and Dollery 2000.

28 Worthington and Dollery 2000.

29 Dollery, Goode and Grant 2010; Nicholls 2017.

in order to redraw boundaries and drastically reduce the number of local councils. Voter discontent with the swiftness of these reforms became a major state election issue, and the government was promptly voted out of office.<sup>30</sup> Similarly, in 2008, the Queensland government halved the number of local governments; several of the amalgamated councils have since demerged. In 2015, the NSW government sought to reduce the number of local governments, but the reform process was incomplete, halted due to voter discontent, a change of state political leadership and court challenges by local governments facing mergers.

The driving force behind these moves to structural reform has been largely ideological, the notion being that smaller local governments are inefficient. There is no Australian evidence to support this claim.<sup>31</sup> The most recent reforms in NSW and the pressure for reform in Tasmania have primarily been driven by the property sector, which has argued that different planning rules in different local government areas create additional red tape and inefficiency in the development processes.<sup>32</sup> Larger local governments can promote strengthened strategic leadership capacity,<sup>33</sup> but this is difficult to measure or realise at times.

With the exception of introducing rate capping in some jurisdictions, state governments have generally shied away from reforms that deliver a fairer share of revenue to local governments. A national review of the federation that considered the distribution of revenue and expenses between levels of government also failed to include any proposals that would rebalance tax revenues to match the increased service-delivery responsibilities of local governments.<sup>34</sup> The continual focus of state governments on structural reform while ignoring the financial basis of local government is a source of ongoing conflict in the Australian federation.<sup>35</sup>

#### Service delivery

One of the major advantages of local government is that ‘it allows public services to be adjusted to suit local needs and preferences.’<sup>36</sup> Ideally, local governments are established so that ratepayers who pay for local services can decide on what services they receive.

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30 Burdess and O’Toole 2004.

31 Drew, Kortt and Dollery 2012.

32 Property Council of Australia n.d.

33 Independent Local Government Review Panel 2012.

34 Department of the Prime Minister and Cabinet 2014.

35 Dollery, Goode and Grant 2010.

36 Watt 2006, 8.

*Local government and service delivery*

Australia's local governments have evolved beyond a narrow emphasis on 'services to property' to promote the social, economic, environmental and cultural wellbeing of the communities they govern. This has been a response to citizens' rising expectations of public services and the devolution of service-delivery tasks from higher levels of government to local governments.<sup>37</sup> At the same time, local government services have become subject to increased regulatory requirements from other levels of government, particularly in core areas such as asset management, land use planning and community planning. The costs of providing and maintaining services have also increased faster than revenue.

The net effect has been that local governments now provide a wider range and higher standard of services, such as sporting, cultural and community care facilities, under increasing regulatory and financial constraints. These issues have all contributed to the vastly increased complexity of local service delivery.<sup>38</sup> Recently, attempts have been made to make sense of this expanded and more complex service-delivery task for contemporary local governments (see Table 1)

The ability to tailor services to meet local needs is one of the justifications underpinning Australia's more decentralised system of local government.<sup>39</sup> This justification references the principle of subsidiarity, which is concerned with ensuring service delivery is assigned to the lowest level of government capable of performing the task, unless allocating to a higher level would achieve greater efficiency and effectiveness.<sup>40</sup> Because Australia's local governments are closest to their communities, they have unique insight into local needs. They determine service levels according to these needs as well as state, territory and national regulatory and funding conditions. Therefore, in one way, local governments act as subsidiary agents responsible for delivering services for state and territory governments. Yet, in another way, they are also legal entities with elected political bodies responsible for their communities. This creates a somewhat conflicted relationship between local government and citizens: as well as being 'voters' and 'ratepayers', citizens are also 'customers'.

The justification for local government has been questioned on the basis that, in a globalising world, it is not possible to constitute a spatial community. Indeed, commentators have pointed to vast differences between the colonial life that existed when local government systems were established, and have argued that 'advances in modern communications made community governments based on the village or suburb an outmoded entity'.<sup>41</sup> Further, because many public services are now delivered and funded directly or indirectly by other tiers of government as well

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37 O'Connor 2017.

38 See Walker and Gray 2012.

39 Colebatch and Degeling 1986.

40 Follesdal 1998.

41 Chandler 2010, 10.

**Table 1 Typology of expanding local government services**

| Function                           | Services and infrastructure   |
|------------------------------------|---|
| Economic and community development | Operation of tourist centres and facilities<br>Provision of grants to local groups to provide services<br>Events and promotions |
| Sustainable land use               | Development approvals<br>Building approval and certification<br>Management of public land                                       |
| Protecting the environment         | Preventing pollution or restoring degraded environments<br>Providing environmental programs<br>Strategic planning               |
| Community services                 | Library services<br>Community events<br>Aged care<br>Early childhood education and care   |
| Public health and safety           | Waste collection and management<br>Water and sewerage services<br>Preparedness and response to natural disasters                |

Source: adapted from Independent Local Government Review Panel 2012, 6.

as private and non-government sectors, local government is often not the only service-delivery agent in a particular area.

Other factors to consider when examining the evolving nature of local government service delivery include:

- *‘Core’ local government functions*: although these differ across jurisdictions, there is an expectation local governments should provide core services to a minimum standard before other tasks are considered. Examples of core services include building approval and certification, waste collection and management, and cultural and recreation services, such as libraries.



- *Services delivered in competition with other providers*: for a range of reasons, local governments choose to deliver services in competition with other providers. Examples include child care, golf courses, caravan parks and commercial car parks. These can also provide new revenue sources or generate additional revenue.
- *'Market gap' services*: particularly in rural areas, local governments often face pressure to provide services that are economically unviable for the private sector due to small population numbers, and there are no alternative providers. Examples include medical clinics, aged care services and programs, airports, saleyards, abattoirs and cemeteries.<sup>42</sup>

#### *Local government and place shaping*

Place shaping is a concept that illustrates the evolving role of local governments in the context of citizens' increased expectations of public services and an expanded service-delivery task. Place shaping helps identify the special characteristics of local places, such as neighbourhoods, so that action can be taken on economic, social and environmental fronts to enhance the quality of these places and the life of their people.<sup>43</sup> It involves the creative use of power to promote the wellbeing of a community, and may include building and shaping local identity, regulating harmful and disruptive behaviours, and helping to resolve disagreements.<sup>44</sup>

The introduction of place-based community planning across Australia, such as the Integrated Planning and Reporting framework in NSW, can be viewed as an effort to help local governments reconcile competing service-delivery demands.<sup>45</sup> Through place-based processes, local governments take a 'whole of council – whole of community' view and perform a stronger role by engaging communities more deliberatively in decisions about services, models of delivery and the inevitable trade-offs required between community expectations and regulatory and funding constraints. These processes not only shape what gets delivered but also educate communities about the increasingly complex service-delivery task facing local governments. Place-based processes appear to be changing community perceptions of local government. For example, respondents to one survey identified place-based planning for the future as one of the most important functions of local governments in Australia.<sup>46</sup> This represents a clear departure from historical perceptions of local governments as providers of services to property.

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42 Independent Local Government Review Panel 2012, 7.

43 McKinlay et al. 2011, 4; Rablen 2012, 303–5.

44 Lyons 2007, 3.

45 Office of Local Government n.d.

46 Ryan et al. 2015.

## Major challenges

In addition to the problems of a growing service-delivery task and stagnant revenue bases, major challenges facing contemporary Australian local governments include rising maintenance costs for ageing assets; shifting community needs and expectations about the role of local government in responding to economic, social and environmental problems; reluctance to change existing service-delivery models; and increasingly fragmented, multi-sector, multi-level service-delivery governance frameworks.<sup>47</sup>

### *Local government assets*

Most local government assets are long lived and not traded in markets. Even though these assets are crucial to the economic and social vitality and everyday functioning of communities, there is a 'massive backlog of new projects and maintenance and upgrade projects'.<sup>48</sup> A 2006 national study estimated the Australia-wide cost of restoring local government infrastructure was between \$12 billion and \$15.3 billion.<sup>49</sup> Comrie suggests that since asset lifespans are difficult to predict, there may be 'some uncertainty as to the reliability of local government expenses'.<sup>50</sup> Indeed, there is evidence that the total operating expenses of Australia's local governments exceed their revenue and that the sector is in a net negative financial position.<sup>51</sup> This has led to observation by some that local government faces worsening financial sustainability and the emergence of a massive infrastructure backlog.<sup>52</sup>

Other factors that have raised interest in the financial capacity of local governments to manage assets over recent decades include:

- an increased range of responsibilities and expenditure without growing revenues as property rates are volatile and fluctuate with land valuations
- additional service needs in urban and coastal areas that are experiencing rapid population growth, and financial challenges for rural local governments that are experiencing population and revenue decline
- concern that local government assets are ageing and renewal expenditure is not occurring at the rate necessary to maintain existing service levels, let alone meet citizens' rising expectations.<sup>53</sup>

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47 See Walker and Gray 2012, 5.

48 Campbell 2011, 2.

49 Campbell 2011, 2.

50 Comrie 2013, 9–12.

51 Comrie 2013, 9–12.

52 Dollery, Goode and Grant 2010, 81.

53 Comrie 2013, 8.

*Changing expectations: adapting to a changing climate*

Addressing the impacts of a changing climate requires action by all three levels of government as well as partnerships with organisations and institutions outside of government. In light of the recognised exposure of public assets and the community to climate change risk, local governments face a rapidly expanding service-delivery task, including:

- developing climate adaptation policy and planning for local government areas and, where possible, for regions
- sustainable design and land use planning, including new standards for construction and effective regulation
- contributing to the development of more resilient communities that can work together to reduce their vulnerability to climate change and recover more quickly from adverse events
- developing new models for water reuse and recycling and municipal solid waste management
- protecting natural resources and increasing the resilience of local ecosystems
- incorporating public participation at all levels of climate change adaptation.<sup>54</sup>

However, a key challenge for Australian local governments is that they lack the legal power and financial resources to fulfil this mandate effectively. With a strong reliance on rates and user fees and charges, they do not have access to the new revenue streams needed to carry out many of these tasks.<sup>55</sup> Another core local government service, land use planning, is also affected; it is difficult to predict how climate change impacts will manifest on a local scale, and there is 'a lack of scientific information at a scale relevant to inform local planning'.<sup>56</sup> Therefore, effectively adapting to and mitigating climate change may appear beyond the existing capacities of local government, particularly in rural and remote Australia.<sup>57</sup>

However, a number of useful models are emerging to assist local governments to address service-delivery challenges arising from climate change. Recently, international networks, such as the C40 and Resilient Cities networks, have formed to build local capacity and drive action by facilitating knowledge exchange. Moloney and Fünfgeld also describe the Climate Change Alliances that have emerged in Victoria as good examples of local governments demonstrating their capacity to respond to climate change in the absence of clear direction and support from state and national governments.<sup>58</sup> Serrao-Neumann et al. also discuss three Australian local government-led public participation initiatives and note that it is

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54 Based on: Preston and Scott 2012; Moloney and Fünfgeld 2015; Serrao-Neumann et al. 2015.

55 Preston and Scott 2012, 14.

56 Baker et al. 2012, 135.

57 Baker et al. 2012, 128.

58 Moloney and Fünfgeld, 2015.

important that local governments work to ensure responsibility for climate change adaptation is shared between the public and private sectors, and communities.<sup>59</sup>

*Reluctance to change service-delivery models*

Local governments design services to meet local needs. However, sometimes there can be a reluctance to change service-delivery models. The dominance of different functions performed by local governments across Australia's states and territories also influences their capacity to alter service delivery models. For instance, social services are often amenable to delivery by non-government providers, while major infrastructure is increasingly provided through public-private partnership (PPP) models. The way services have been delivered in the past is a strong predictor of how they will be delivered in the future. There is often considerable reluctance to change how things are done due to 'the uncertainty and management structure costs incurred with a switch of models'.<sup>60</sup>

Lamothe, Lamothe and Feiock suggest that 'in complex and uncertain situations organizational inertia and incrementalism may limit local public officials' ability to depart radically from past arrangements'.<sup>61</sup> This could lead risk-averse managers to prefer the maintenance of existing service-delivery models over potentially superior, but uncertain, alternatives.

Other factors that may contribute to resistance to change in service delivery include:

- concern about the costs associated with change, e.g. the fear that costs of finding new vendors could outweigh costs involved in managing existing contracts
- governance structures and skills, e.g. the structures and skills needed to manage in-house service production can be quite different from those needed to contract outside vendors
- specific jurisdictional characteristics, such as management capacity (e.g. for evaluation), management structures (especially the relationship between politicians and administrators) and the competitiveness of the market.<sup>62</sup>

Therefore, when analysing local government service-delivery models, it is wise to consider the history of services in a locality and the path dependency of service-delivery models, alongside the attitudes of public officials.

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59 Serrao-Neumann et al. 2015.

60 Lamothe, Lamothe and Feiock 2008, 48.

61 Lamothe, Lamothe and Feiock 2008.

62 Lamothe, Lamothe and Feiock 2008, 28–34.

*Fragmented governance: working in partnership*

Partnerships between government and the non-government sector are not new; they stretch back to the local governments of the colonial era.<sup>63</sup> However, the notion of working in partnership has received growing criticism over the last couple of decades following widespread outsourcing of service delivery to private and non-government organisations. While persuasive arguments can be identified both 'for and against the private provision of public infrastructure in contemporary local government',<sup>64</sup> concerns have been raised about whether the emphasis on partnership privileges partners over the wider community.<sup>65</sup>

Local governments have pursued three common responses to privatisation:

- *Hollowing out*: declines in revenues and reductions in intergovernmental transfers have forced local governments to 'hollow out' their services by reducing service levels, outsourcing core service obligations through PPPs and increasing user fees.
- *Riding the wave*: some local governments use privatisation as a two-edged sword, harnessing the market towards public ends. As services are contracted out, local governments create markets for public services by allowing competitive bidding to drive down service costs while maintaining quality for ratepayers.
- *Pushing back*: often encouraged by citizen action, some local governments have pushed back against pressures to cut or privatise services. This has led to initiatives such as establishing multi-sector coalitions of citizens, non-profit organisations and government to drive service delivery, particularly in the areas of housing and economic development.<sup>66</sup>

Flinders has analysed local government PPPs in the UK, and suggests they 'raise a host of political issues and tensions that have largely been overlooked'. These include:

- *Balancing efficiency and flexibility*: PPP projects adopt a 'buy now, pay later' approach, creating issues for the policy flexibility of future local governments, which are constrained by the need to service payments for contracts entered into by previous governments.
- *Failure to address core risks*: PPPs do not solve the problems of capital-intensive service delivery as they focus more on costs and do little to address underlying revenue issues. Therefore, the risk of revenues not matching expenses stays with government.
- *Complex, delegated governance*: when service delivery is contracted out, it can confuse the public as to who is responsible. There can also be confusion within

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63 Larcombe 1978.

64 Cannadi and Dollery 2005, 116.

65 Rees, Mullins and Bovaird 2012.

66 Warner and Clifton 2013, 52–7.

government when authority for decision making and managing expenditure is devolved to non-elected PPPs.<sup>67</sup>

#### Improving outcomes for local communities

A core tenet of place shaping is a strong focus on improving economic, environmental and social wellbeing. New ways of managing the performance of local governments in delivering these outcomes have also been introduced as part of place-based planning processes.<sup>68</sup> The core logic of performance management is that organisations and managers are given targets derived from objectives, such as promoting community wellbeing, and ‘instruments of authority or incentive’ are used to encourage staff to achieve or exceed these targets.<sup>69</sup>

However, while performance management systems need to connect to penalties and incentives to ensure targets affect behaviour, they must also be designed in a way that does not crowd out public interest motivations by promoting ‘gaming and cheating behaviours’.<sup>70</sup> This requires constant care and attention, including establishing clear links between measures, penalties and incentives as well as regular adjustments to ensure targets reflect community wellbeing.<sup>71</sup>

#### *Aligning local government performance and community expectations*

Citizen expectations of performance influence their satisfaction with and choice of services as well as their political voice, including who they will vote for. Expectations can be defined as ‘judgements of what individuals or groups think will or should happen under particular circumstances’.<sup>72</sup> These include expectations that decision-making processes will attempt to maximise expected utility, and citizen views of reasonable or desirable levels of service performance. Community expectations and judgements of local government service delivery are influenced by factors such as:

- whether there are other agencies available to provide a service, or whether council is the only option
- the demographics of the community
- the geography of the area
- the community’s willingness to pay higher rates to get more services from the local council
- the presence of a strong local business lobby

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67 Flinders 2005, 224–31.

68 Office of Local Government n.d.

69 Pollitt 2013, 347.

70 Pollitt 2013, 358.

71 Ryan and Drew 2019.

72 James 2011, 1420–1.

- proximity to major towns (in the case of smaller settlements) where services can more easily be accessed.<sup>73</sup>

According to James, the provision of performance information by local governments affects citizen expectations of and satisfaction with local government performance: 'Information is valuable because it helps them exercise choice as users of services through knowledge of what they expect to receive.'<sup>74</sup> Community satisfaction surveys are one way Australian local governments determine citizens' expectations and assess performance. Typically, these surveys ask ratepayers to indicate how important each service is to them, their satisfaction with what has been delivered and what they feel needs improving.<sup>75</sup>

Community satisfaction surveys have become powerful tools to examine and communicate citizens' expectations in terms of service delivery and the community's judgement about performance. They help local governments to identify gaps between expectations and performance and highlight areas where performance improvement is needed. Increasingly, the findings of these surveys form the basis of local government annual reports and are being fed into major whole-of-organisation service delivery review processes.<sup>76</sup>

#### Conclusions: a public value approach to local government

Australia's local governments are increasingly important to the proper function of economies, communities and environments across the country. This is reflected in the growing diversity of their legal foundations, characteristics, governing arrangements and funding. While recent reform agendas have focused more on structural and monetary outcomes, the introduction of community strategic planning, with place shaping and performance management as guiding principles, is an exciting development that reflects the evolved role of local governments in contemporary Australia society.

As local governments assume a greater role in society, beyond services to property, they must strive to meet rising community expectations in increasingly constrained and layered service-delivery contexts. This requires new frameworks to guide their activities. Discussion of 'public value' has been widespread in public policy since Mark Moore developed the conceptual framework for it in 1995.<sup>77</sup> There is strong support for public value as a guiding principle for contemporary local governments because it is seen as enhancing service-delivery outcomes.<sup>78</sup>

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73 Independent Local Government Review Panel 2012, 6.

74 James 2011, 1431.

75 Morton Consulting 2014.

76 Ryan and Hunting 2015.

77 Alford and O'Flynn 2009; Williams and Shearer 2011.

78 See Benington 2009.

For instance, Stoker suggests a public value style is well suited to fragmented governance systems in the sense that ‘it bases its practice in the systems of dialogue and exchange that characterize networked governance.’<sup>79</sup> The public value framework requires public sector managers to:

- aim to create something that is substantively valuable – that is, to constitute public value
- be legitimate and politically sustainable, in the sense that they attract enough ongoing support and resources from the authorising environment
- be operationally and administratively feasible, drawing on available organisational and external capabilities.<sup>80</sup>

In contrast to the private sector, which can focus solely on monetary outcomes and creating value for private shareholders, public value emphasises a much broader range of activities valued by the public. The concept requires public managers to search for and identify economic, social and environmental goals valued by citizens, such as climate change adaptation. This necessitates constant engagement with communities and stakeholders, as well as greater recognition of the legitimacy of a wider range of stakeholders in realising these goals. For instance, procurement processes that adopt a public value orientation require an open-minded approach to identifying the best supplier for a service, regardless of whether they are public, private and/or non-government providers. This means that local governments must remain constantly attuned to public preferences and integrate these into their service-delivery activities.<sup>81</sup>

Public value requires commitment to new goals and ways of working that are more demanding than those that existed when local governments were established in the colonial era. As the role of Australian local governments has expanded to include services to people, they have begun moving down the public value pathway, using place-based planning and working with communities and stakeholders to identify broader goals and ways of achieving them. However, a more ambitious reform agenda is required to build the regulatory, financial, human and technical capabilities that contemporary local governments need to deliver on this commitment. This is the major challenge facing modern Australian local government.

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<sup>79</sup> Stoker 2006, 41.

<sup>80</sup> Sources: Alford and O’Flynn 2009; Grant and Fisher 2011; Stoker 2006, 46–9; Williams and Shearer 2011.

<sup>81</sup> Benington 2009.



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# Political sociology



# Gender and sexuality in Australian politics

Merrindahl Andrew

## Key terms/names

backlash, bodies, institutions, leadership, numerical representation, parties, public/private divide, quotas, substantive representation, suffrage

Gender pervades social and political life. It is impossible to function in the world without using gendered categories and concepts and impossible to avoid gender roles, whether one ends up conforming to or resisting them – or, as is more likely, doing a complex mixture of both. Gender is one of the perpetually unresolved matters of politics; woven into power structures but continually challenged, gender shapes many of the most fraught and controversial political issues, such as reproductive rights, welfare, violence and poverty. For feminists and their allies, gender politics offers the hope of transformation and a centuries-long record of progress towards equality.

Over the last half-century, sexuality and gender diversity have increasingly become topics of contention, with moves to end discrimination and promote inclusiveness met by intensifying attempts at conservative repression. Lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) people's rights and women's rights are framed as threatening and, at times, as foreign agendas, strengthening neo-traditional sexual and gender diversity politics within nationalist political movements.<sup>1</sup> In Australia, LGBTIQ+ issues have become more prominent due to

Andrew, Merrindahl (2019). Gender and sexuality in Australian politics. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Altman and Symons 2016.

conflict over marriage equality and contestation about the place of sexual and gender diversity education in schools.<sup>2</sup>

This chapter discusses the different ways gender and sexuality are manifested in Australian politics, and the key concepts mobilised by scholars and advocates working on issues of gender and sexuality. It begins with the ways feminist and queer scholars have questioned definitions of ‘the political’ that rely on a gendered view of the public/private divide. The second part of the chapter focuses on political participation, outlining social movements that have put issues of gender and sexuality on the agenda, exploring the attainment of voting rights and considering gendered patterns of voting. The third section explains how powerful norms and ideas about leadership are gendered and sexualised, and the fourth addresses institutions, both in terms of the gendered nature of political institutions and feminist institution-building. The fifth part focuses on representation in both its numerical and substantive forms, outlining the representation of women and LGBTIQ+ people in Australian parliaments and exploring the role of political parties and quotas. The final section of the chapter discusses media, backlash and social change in the area of gender and politics.<sup>3</sup>

#### Expanding politics: questioning ‘normal’

Politics has conventionally been viewed as being about government and the public. But politics can also be defined in terms of power. Applying this broader view of politics, we can see that the apparently natural division of public and private subordinates women and children. In liberal political theory, the division between state and civil society (public and private) is established through a fraternal social contract that claims to free individuals from traditional hierarchies.<sup>4</sup> As Carole Pateman and other feminist scholars have shown, however, this social contract is based on a concealed ‘sexual contract’ in which the individual is implicitly understood as a man who is the head of his household, with women and children subsumed within the family – the private sphere, where men can do what they wish.<sup>5</sup> As Pateman argues, ‘the doctrine of “separate but equal”, and the ostensible individualism and egalitarianism of liberal theory, obscure the patriarchal reality of a social structure of inequality and the domination of women by men.’<sup>6</sup>

2 Williams and Sawer 2018.

3 At places throughout this chapter I use the terms ‘men’ and ‘women’ in a simplistic, binary way. I acknowledge that this is not an accurate way to encompass differences in gender and that it excludes people who are gender diverse. My use of these terms in this way reflects the fact that much of the research I am summarising in the field of politics, as in scholarship generally, employs this model of gender, and I acknowledge the value of scholarship that tries to move beyond this binary.

4 Pateman 1989, 118–40.

5 Celis et al. 2013, 6; Pateman 1989.

6 Pateman 1989, 120.



The identification of the family with the private sphere has made caring labour invisible and undermined women's participation by associating the private with feminised and stigmatised qualities such as emotion, irrationality and the body. As politics is typically identified as being related to the state, some things are seen as being more closely related to politics than others. In particular, bodies, reproduction, sex and emotion are often seen as existing outside the state and as feminine, compared with institutions and rules, which are considered to be at the centre of the state and to be masculine.

This pattern has severely constrained attempts to address rights violations, including violence against women and children. In feminist approaches to politics, there is an attempt to question this division and challenge claims of equality, while also exploring the private as a site for new forms of politics based on care and dialogue. A major contribution of feminist and queer scholarship has been challenging these presumptions about what 'the political' is.<sup>7</sup>

These challenges have expanded the discipline of political science to consider topics such as what citizenship would look like if it was truly inclusive of women, dependence and care responsibilities, performance and appearance, and voice and interruption. However, much political science scholarship continues to disregard gender and sexuality (as well as race, class, disability and other factors)<sup>8</sup> in a way that perpetuates the centring of white men's experiences as 'normal' and 'others' as aberrant or exotic.<sup>9</sup>

While gender remains important in political scholarship and practice, there has been a strong critique of the binary and essentialist way gender terms and categories are used. Scholars have sought to deconstruct gender, going beyond even the sex/gender distinction (sex as biological fact, gender as social construction) to focus on how power relations produce gendered subjects.<sup>10</sup> This project, sometimes called 'queering', has challenged not only patriarchal presumptions but also some of the categories on which feminists have tended to rely, such as women/men.

At the same time, the hegemonic nature of feminism, and what it includes or excludes, has been criticised. This has involved challenging the concept of 'women' as a unified category and recognising that gender is always intertwined with Aboriginality, race, sexuality, dis/ability, class, cultural background, migration status and other identity factors.

As well as questioning what is included in 'politics', it is worth considering the boundary drawn around Australian politics. Much of what is discussed in this chapter applies also in many other countries. Developments in gender, sexuality and politics are occurring at transnational levels, especially through online communications and communities, international networks and cultures, and migration.

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7 Smith and Lee 2015, 55.

8 Kantola and Lombardo 2017, 1–17.

9 Celis et al. 2013, 2.

10 Smith and Lee 2015.

The focus on 'Australian' also reflects current political power and the legacies of colonisation. Colonisation has significant gender and sexuality dimensions, including the disruption of Aboriginal and Torres Strait Islander gender roles and norms, colonial laws regulating sexuality, sexual violence and servitude, and the gendered impacts of child removal – together with concerted resistance. The legal and cultural power structures on which the Australian state was founded continue to exist, meaning that Australian politics is not culturally or linguistically neutral but distinctively British – a situation that is variously endured, contested and accommodated by people from other backgrounds.

A body of scholarship and activism is now concerned with Indigenous and decolonising perspectives on feminism, which call on participants to reflect on their own situatedness within systems of power. These perspectives identify and challenge the unearned privileges of whiteness, rather than reproducing a presumed neutral or universal conception of womanhood, which, in reality, has been derived from white women's experiences and viewpoints.<sup>11</sup> They also highlight problems in the feminist critique of the public/private divide, in that this divide is shown to obscure the existence of racialised women who are denied access to the liberal private sphere – a denial played out in contemporary politics through the removal of children from Black and Indigenous mothers. Building on this understanding, Indigenous and decolonising perspectives on feminism engage in bringing to light the violence upon which the liberal social-sexual contract is based and creating new modes of politics and governance with care at the centre.

In terms of research practices, the development of feminist research ethics also requires attention to the social position of the knowledge producer and the potential for relationships and care between the people involved, and exploring alternative modes of knowledge beyond the abstract and individualised.<sup>12</sup> Feminist research also includes epistemological shifts towards valuing the knowledge of racialised women, including art, storytelling, music and dance, approaching this knowledge through dialogue to create new ways of speaking about and engaging in the political.

#### Political participation

Gender is an issue because feminists and their allies have made it so. The reason they have done so is that gender inequality and gender norms have enormous impacts on individuals and communities, including on people's power and rights, practical circumstances (employment, income, education), safety and access to decision making.<sup>13</sup> The same is true of sexual and gender diversity. Without lesbian

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11 Moreton-Robinson 2000; Motta and Seppälä 2016.

12 Ackerly and True 2008.

13 Australian Human Rights Commission 2018; Celis et al. 2013.

and gay liberation movements and the expanding mobilisation of LGBTIQ+ people these issues would not be visible or addressed within politics or political science. Feminist and LGBTIQ+ movements in Australia have been responsible for expanding civil and political rights, raising new issues for consideration within formal politics, achieving reforms and building new organisational forms.

In Australia, the mainstream (white) story of the women's movement has its roots in the struggles surrounding the vote, responsibility for children and military conscription that took place towards the end of the 19th century and in the early 20th century.<sup>14</sup> It is important to acknowledge that the movement was created within a colonial context and carried ideas of progress that were embedded in colonialism – an intertwined history that is now the subject of interventions from Indigenous and decolonial feminisms.<sup>15</sup>

In the UK, USA, Australia and western Europe, these earlier mobilisations are often called the 'first wave'. The 'second wave' of feminist mobilisations occurred in the same countries from the 1960s until roughly the 1980s.<sup>16</sup> The 'waves' metaphor is useful in that it identifies highly visible surges of mobilisation, but it can be misleading in that it obscures the less visible work done 'in between the waves' – which includes policy advocacy, work within institutions, institution building, community building, informal networks and artistic affinities.<sup>17</sup>

The 'first wave' women's movements were largely white, heterosexual and middle/upper class, oriented towards experiences of womanhood that excluded the issues faced by other women.<sup>18</sup> As women's liberation and gay and lesbian rights movements mobilised on larger scales from the 1960s onwards, the groups seen as central to the movements continued to be those that were comprised of white middle/upper class people. However, alongside these movements have been a range of other mobilisations, including Aboriginal women's collective efforts for rights and wellbeing, separate from the feminist movement,<sup>19</sup> women's mobilisation within trade unions,<sup>20</sup> white working-class Marxist-socialist feminist movements, human rights activism by and for women with disabilities,<sup>21</sup> and migrant and refugee women's mobilisations and community building.<sup>22</sup>

While the account given here centres on the gender dimension of the women's movement and other movements, this is not to say that gender (or at least gender as understood by those in the 'mainstream' of the women's movement) is, in reality, the most salient feature or 'axis' of oppression/privilege for the people involved.

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14 Andrew 2008.

15 If this was written by Aboriginal women, the story of women's politics and feminist movements would undoubtedly be different.

16 van Acker 1999, 7.

17 Katzenstein 1990; Staggenborg and Taylor 2005.

18 van Acker 1999, 7.

19 Behrendt 1993.

20 Francis 2014.

21 Henningham 2014, 157–61.

22 Pallotta-Chiarolli 1998.

Indigenous and decolonising feminisms are among those approaches bringing other dimensions of oppression and privilege to the fore.

The gay and lesbian rights movement, which evolved into the LGBTIQ+ rights movement,<sup>23</sup> has successfully achieved legal decriminalisation of homosexuality in all Australian states and territories (from South Australia [SA] in 1975 to Tasmania in 1997).<sup>24</sup> LGBTIQ+ communities have mobilised cultural power through events such as Mardi Gras and popular culture expressions of sexuality and gender diversity, many of which are international in nature. As in other countries, lesbian and gay groups created community responses to HIV/AIDS that challenged the state's neglect of lesbian and gay lives.<sup>25</sup> Marriage equality (achieved in 2017) has been the most notable recent campaign in relation to sexual and gender diversity. Another important focus of contestation has been Safe Schools – a national program aiming to eliminate homophobic bullying in schools and create safe schooling environments.

### *Voting rights*

As we have seen above, there are various forms of participation outside of formal politics that are particularly relevant for people who are marginalised in or excluded from formal politics. In systems of electoral democracy such as Australia, however, voting is seen as the foundational form of participation.

The Australasian colonies were among the first jurisdictions worldwide to introduce universal white male suffrage: the right of all white men aged 21 and over regardless of class or property to vote.<sup>26</sup> Women (and, in some states, Aboriginal and Torres Strait Islander men) were excluded regardless of property. Queensland and Western Australia explicitly denied Aboriginal and Torres Strait Islander people of all genders the vote.

In 1895, SA introduced voting rights for adult women (including Aboriginal and Torres Strait Islander women). The other Australian states and territories followed, extending voting rights to some women within the next decade and a half.<sup>27</sup> The right to stand for office followed somewhat later in most jurisdictions; women could not stand for election to the Victorian parliament until 1923.<sup>28</sup>

The process of Federation and the formation of the new Constitution of Australia provided opportunities for white women to press for political rights.<sup>29</sup> As a result of women's mobilisation and support from allies, especially from SA, the Constitutional Convention of 1897 secured agreement (by only three votes)

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23 Johnson, Maddison and Partridge 2011.

24 Winsor 2017.

25 Johnson, Maddison and Partridge 2011.

26 Curtin 2014, 312.

27 Curtin 2014, 312.

28 AEC 2015a.

29 Curtin 2014, 312–3.

that white women would be eligible to vote and stand for the new Australian parliament. The *Commonwealth Franchise Act 1902* (Cth) established the rights of white women aged 21 and over to vote and stand for parliament at the national level but explicitly excluded 'any aboriginal native of Australia, Asia, Africa or the Islands of the Pacific, except New Zealand', unless they were already enrolled in a state before 1901.

The achievement of voting rights is often described as legislators 'giving women the vote'. However, excluded people were not passive recipients in the process. Major mobilisations of women through organisations such as the Women's Christian Temperance Union and the Australian Women's Suffrage Society were instrumental in persuading male legislators and voters, through interventions such as the 260-metre-long Women's Suffrage Petition presented to the Victorian parliament in 1891, containing 30,000 signatures.<sup>30</sup> Those who opposed extending the franchise used arguments such as the prospect that men may have to perform housework and child care because women would be so occupied with civic concerns.

As noted above, Federation did not improve the situation for Aboriginal and Torres Strait Islander people, and patterns of disempowerment continued. From the 1950s, however, the US civil rights movement inspired Aboriginal and Torres Strait Islander people to intensify their efforts to obtain voting rights, among other rights. It was not until 1962 that Aboriginal and Torres Strait Islander people gained the right to vote in federal elections.

#### *Using the vote*

Many early women political activists rejected the idea of pursuing political power through the established parties in favour of articulating a maternal civic philosophy that held itself above the grubbiness of ordinary politics.<sup>31</sup> At the same time, women political activists vigorously encouraged women voters to assess parties on their merits (particularly their positions on key issues such as child welfare and women's economic independence). Echoes of this practice of non-partisan mobilisation can be seen in organisations such as the Australian Federation of Women Voters (1921–82) and the Women's Electoral Lobby (WEL) (1974 onwards).<sup>32</sup>

Historically, women as a statistical group<sup>33</sup> have voted more conservatively than men in Australia, supporting the Liberal–National (Coalition) parties more than men and the Australian Labor Party (ALP) less than men.<sup>34</sup> Given that left-wing parties are more likely to pursue policies supporting women's economic equality, it

30 Curtin 2014, 312–3.

31 Curtin 2014, 31–4; Koven and Michel 1993.

32 Andrew 2014; Byard 2014.

33 This non-disaggregated measure obscures voting differences by class, race and other factors. Many women would have been voting less conservatively than white middle- and upper-class women and men.

34 Curtin 1997.

might be expected that they would be the ‘natural home’ of women voters. However, women’s equality is just one issue considered by voters, and others may take priority.<sup>35</sup> Women may also have been influenced by the ALP’s view of labour as a right of the male breadwinner and of class solidarity as mateship.<sup>36</sup>

In recent years, the gender gap in voting behaviour has narrowed.<sup>37</sup> From the 1960s onwards, there has been a gradual increase in the percentage of men voting for the Liberal or National parties and a gradual increase in the percentage of women voting for the ALP.<sup>38</sup> In 2010, with Julia Gillard – Australia’s first woman prime minister – contesting the election, the gap was reversed; women were supporting Labor more than the Coalition and more women than men were supporting Labor. This shift was consistent with international trends, in which left-of-centre parties were able to narrow and in some cases begin to reverse traditional gender gaps that had seen them supported more by men than by women.<sup>39</sup> In the 2013 election, the gender balance shifted back so that roughly equal proportions of women and men supported Labor and the Coalition, although women were more likely to vote for the Greens than men. In 2016, women were once again more likely than men to vote for Labor (by 7 per cent) and more likely than men to vote for the Greens (by 4 per cent).<sup>40</sup>

The voting patterns of LGBTIQ+ people are much less studied. The Australian Electoral Study, perhaps the key scholarly source of information about voting behaviour and attitudes in Australia, does not ask about respondents’ sexuality and only allows respondents to select ‘Male’ or ‘Female’ identification for gender (with no option for ‘Other’, ‘Trans’ or ‘Non-Binary’).<sup>41</sup>

## Leadership

Scholarship on women in politics has shown that leadership is associated with masculine qualities of toughness, single-mindedness and aggression. These qualities are seen as undesirable in women, as well as – via the conventional double standard – positive attributes impossible for women to fully embody.<sup>42</sup> Women politicians are often punished harshly for transgressing norms of femininity or leadership (constructed as mutually exclusive). Sinclair has drawn attention to the ‘power and privilege reproduced in leadership and leadership research’, which ‘reinforces the

35 Curtin 2014.

36 Curtin 2014, 148.

37 Bean and McAllister 2015, 41–4.

38 Manning 2013.

39 McAllister cited in Manning 2013.

40 At the time of writing analysis was not yet available for the 2019 election.

41 McAllister et al. 2017.

42 Sinclair 2014.

power of a narrow white male elite and continue[s] the oppression of the majority of women, Indigenous peoples and those from non-white backgrounds.<sup>43</sup>

Over the last few decades, feminist studies have explored possibilities for relational, non-hierarchical models of leadership and organisational management.<sup>44</sup> At the same time, feminist studies of leadership are bringing to light women leaders in a variety of domains, including those usually overlooked as sites of leadership, such as environmental movements,<sup>45</sup> disability advocacy,<sup>46</sup> and children's media.<sup>47</sup> While 'post-heroic' ideas about leadership have become more popular in corporate life, in practice, 'rewards and promotions [continue] to flow to those demonstrating traditionally "masculine" leadership traits'.<sup>48</sup>

Recently, scholars have also begun to ask how sexuality and bodies (intertwined with gender) interact with concepts of leadership.<sup>49</sup> This scholarship has identified the association of leadership with a particular form of masculine heterosexuality and the censoring of women's sexuality by dominant models of leadership.<sup>50</sup>

### Institutions

Institutions are not just organisations with names and legal structures; they also operate as 'formal and informal collections of interrelated norms, rules and routines, understandings and frames of meaning that define "appropriate" action and roles and acceptable behaviour of their members'.<sup>51</sup> These norms, rules and routines have strong gender and sexuality dimensions and are often based on masculine expectations and practices, with major impacts on outcomes, including government policies.<sup>52</sup>

In studies of women in New South Wales and Victorian politics, political institutions (especially parliaments) have been found to be actively hostile to women. Furthermore, they are venues in which feminist norms such as consultation and consideration of emotions and the bonds of dependence are often derided.<sup>53</sup> Challenges to these gendered norms have come in many forms, such as breastfeeding in the chamber, which has led to changes to rules against 'strangers' being allowed onto the chamber floor.<sup>54</sup> Challenges over the working hours and scheduling of parliaments are another arena in which there have been attempts to

43 Sinclair 2014, 28.

44 Sawer and Andrew 2014.

45 Elix and Lambert 2014.

46 Henningham 2014.

47 Tomsic 2014.

48 Sawer and Andrew 2014, 296.

49 Bell and Sinclair 2016.

50 Sinclair 1995.

51 Mackay, Munro and Waylen 2009, 255.

52 Brennan and Chappell 2006, 3.

53 Brennan and Chappell 2006; Grey 2009.

54 Grey 2009.

give greater weight to (gendered) relational imperatives, against the (gendered) bias towards unencumbered individualism in the traits expected of parliamentarians.<sup>55</sup>

### *Feminist institution building*

Under the Whitlam Labor government in the 1970s, Australia developed a (then) unique model of women's policy machinery in which dedicated units in departments, supported by a central hub, worked to integrate gender analysis throughout the different policy areas. Women's budget statements analysed budget commitments with a gender lens, and 'femocrats' (feminist bureaucrats) within government tried to maintain links with feminists outside government, particularly the Women's Electoral Lobby.<sup>56</sup>

From the 1990s onwards, this model declined, in part due to rising neo-liberalism and the gradual disappearance from public view of an autonomous, active and oppositional women's movement.<sup>57</sup> The recent surge of feminist activity globally (including the Women's March, #metoo and other mobilisation against violence and harassment), as well as ongoing Indigenous women's resistance and leadership, has intensified demands for greater gender equality mechanisms. The announcement in 2018 that the Australian Bureau of Statistics' Time Use Survey (a key mechanism to measure gender disparities in unpaid care labour) will be reintroduced after a 12-year hiatus may be a sign that feminist demands for stronger women's policy machinery are being heard.

The other major stream of feminist institution building – non-government women's services, such as shelters and women's health centres – has continued, now running as part of a large, under-resourced sector of government-funded but independently run community services.<sup>58</sup> This institutional 'nestedness'<sup>59</sup> sometimes supports and legitimises women's services, but it also makes it difficult for them to sustain and gain recognition for their distinctive role.

### Representation

Across the world, much attention has been given to the participation of women (and, more recently, LGBTIQ+ people) in formal politics, measuring inequalities as well as identifying the underlying factors that structure participation, with the aim of improving the inclusiveness of existing political systems. The concept of representation is key to this 'inclusion project'.<sup>60</sup>

55 Grey 2009, 205–10.

56 Sawer 1990.

57 Maddison and Partridge 2007; Sawer 2007, 40.

58 Murray 2005; Wainer and Peck 1995.

59 Mackay 2014.

60 Squires cited in Celis et al. 2013, 9.



For scholars of gender and sexuality, representation is not just numerical (or ‘descriptive’) but also substantive. This means that there needs to be a distinction between simply having a woman or LGBTIQ+ person in a position of power (numerical representation) and that representative addressing issues and adopting political positions that advance the goals of feminist and LGBTIQ+ activism (substantive representation). Many women politicians, for example, share socially conservative positions that are opposed to feminist and LGBTIQ+ activism; yet their participation as visibly feminine people in politics is still significant in itself. Feminist and queer scholarship has sought to define what difference representation makes – and could make – without assuming that underlying dynamics are automatically shifted by numerical representation.

There is evidence that numerical representation enables substantive representation, such as the collective action of women in parliament across party lines on reproductive rights during the deliberations on a drug used for medical abortions.<sup>61</sup> Women and LGBTIQ+ people being present in decision making affects what issues are prioritised and brings knowledge about marginalised problems and experiences into decision making. But this does not happen in the absence of countervailing forces, especially existing norms and male-majority representation, but also (at times) harassment, political violence and more subtle forms of marginalisation and exclusion. The diversity of women and LGBTIQ+ people is also not yet well addressed in scholarship on representation or in advocacy for greater representation. There is a growing understanding that the category ‘women’ is, in itself, important, but needs to be used in a more disaggregated and nuanced form also addressing race, class, migration status and disability.

Gender representation often tends to be seen as seeking parity in binary terms, encompassing the two genders that are taken to compose humanity: male and female. Manon Tremblay notes, though, that ‘the French concept of *parité* ... is deeply heterosexist’, and human beings cannot be reduced in this way: ‘Things are much more complex.’<sup>62</sup>

#### *Representation in parliaments and Cabinets*

Practices of assessing parliamentary gender representation in simple terms are now well established. In October 2019, 30.46 per cent of Australian House of Representatives members were women, placing Australia 47th in the world.<sup>63</sup> Representation differed between the two houses of parliament, with 50 per cent women in the Senate.<sup>64</sup> While analysis of LGBTIQ+ representation has not yet been published for the 2019 election, in 2016 LGBTI representation stood at 3 per cent in

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61 Sawyer 2012.

62 Tremblay 2019, 108.

63 Inter-Parliamentary Union 2019.

64 Parliament of Australia 2019.

House of Representatives and 5 per cent in the Senate (compared, for example, with the UK, which had 6.9 per cent LGBTI representation in the House of Commons after the 2017 election).<sup>65</sup> Worldwide, in February 2016 the LGBTQ Representation and Rights Research Initiative identified 180 ‘out’ lesbian, gay, bisexual and trans (LGBT) parliamentarians in 42 countries.<sup>66</sup>

Studies of electoral systems across the world have shown that proportional representation systems (as in the Senate) have a positive effect on the election of female candidates, compared with majoritarian systems with single-member electorates (as in the House of Representatives).<sup>67</sup> This can be seen in the Australian parliament. Yet as Wilma Rule notes, ‘Negative electoral system features have been overcome by women’s political mobilization’.<sup>68</sup>

Until recently, research on the gendered impact of electoral systems has ignored the role of sexuality. Manon Tremblay raises several possible avenues for inquiry, including the fact that, unlike women, who are distributed fairly evenly across different geographic areas, LGBTIQ+ people may live in quite dense concentrations. In this kind of constituency, ‘to be an openly LGBT person can be an asset in the selection of candidates’.<sup>69</sup> The finding that urbanisation had no impact on the 2017 Australian marriage equality vote – contrary to assumptions that rural areas are less LGBT-supportive than urban areas<sup>70</sup> – affirms Tremblay’s point that further research is required on LGBT-supportive attitudes and parliamentary representation.

In Australia, while Liberal women’s representation in parliament increased significantly in 1996, supported by mentoring from the party’s Liberal Women’s Forum, there have since been reductions in women’s representation on the Coalition side; women comprised only 17 per cent of Coalition MPs in 2016 (which was the lowest level since 1993)<sup>71</sup> and 27 per cent of senators. By September 2019, this rose to 19.5 per cent of Coalition MPs and 42.9 per cent of Coalition senators.<sup>72</sup> By comparison, women made up 41.2 per cent of Labor MPs and 61.5 per cent of Labor senators in 2019, while the Greens had just one male MP in the House of Representatives and five out of nine (55.6 per cent) Greens senators were women.<sup>73</sup>

In contrast, the number of openly LGBTIQ+ Coalition parliamentarians increased from one in 2012, when Senator Dean Smith was elected, to four (all gay men) in 2016 – the three new members being elected to the House of Representatives. The ALP had three: two women senators, including Senator Penny Wong, the leader of the opposition in the Senate and shadow minister for foreign affairs,

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65 Williams and Sawer 2018, 647. Note: acronyms in this paragraph differ as they have been transcribed from the source texts.

66 Tremblay 2019, 91.

67 Tremblay 2019, 92.

68 Rule 1987, 495.

69 Tremblay 2019, 106.

70 McAllister and Snagovsky 2018, 419.

71 Williams and Sawer 2018.

72 Hough 2019.

73 Hough 2019.

and one man in the House.<sup>74</sup> One of the Greens' five senators (Senator Janet Rice) identifies as LGBTIQ+ and is the Greens member with portfolio responsibilities for LGBTIQ+ issues.

If parliaments are the formal venues for democratic representation, 'the ministry [Cabinet] is the apex of political power'.<sup>75</sup> Women's representation in Cabinet has increased from no women in federal or state/territory Cabinets until 1947<sup>76</sup> to around 26 per cent at the federal level (under a Coalition government in 2018),<sup>77</sup> after highs of 30 per cent under the Rudd Labor government between July and September 2013 and 27 per cent under the Turnbull Coalition government in 2016–17.<sup>78</sup> These are small numbers overall: only two women held federal Cabinet positions before 1983, and until 1996 there was only ever one woman in Cabinet at a time.<sup>79</sup> Labor governments at the state level (Victoria and Queensland) have recently achieved 50 per cent representation in Cabinet.

Jennifer Curtin observes that party discipline has very much limited opportunities for Liberal Party feminists to act as part of a broader non- or cross-party feminist agenda. The ability of women ministers in the Australian conservative parties to substantively represent women's issues is, in many ways, hidden due to the expectations of Cabinet confidentiality.<sup>80</sup>

#### *Political parties and quotas*

Political parties have been both a key barrier to the representation of women and LGBTIQ+ people and a site in which people have organised for better representation. As Manon Tremblay concludes, 'of all the cultural, socioeconomic and political factors affecting the election of women to legislative assemblies, parties are surely the most influential variable'.<sup>81</sup>

While research on the preselection of LGBTIQ+ people is lacking, scholars have confirmed global trends in which parties tend to place women candidates lower down party lists, nominate proportionally fewer women for safe seats and be less likely to preselect women than men as candidates for single-member electorates.<sup>82</sup> These trends are also evident in Australia. Since party preselection is generally the necessary first step towards election to parliament, parties have a major role in hindering or facilitating women's representation.

In response to this, feminists and their allies have pushed for quotas to improve representation of women in parliament. More recently, quotas for LGBTIQ+ people

74 Williams and Sawyer 2018.

75 Moon and Fountain 1997.

76 AEC 2015b.

77 RMIT/ABC 2018.

78 RMIT/ABC 2017.

79 RMIT/ABC 2017.

80 Curtin 2014, 152.

81 Tremblay 2008, 234.

82 Tremblay 2008.

have also been proposed. Quotas are rules about the minimum/maximum proportions of a group who are allowed or required to fill positions – in this case, in party-endorsed candidacies.

Gender quotas aim to disrupt the taken-for-granted-ness of politicians being men as well as provide substantive redress for the barriers that disproportionately obstruct women candidates. Quotas can be legislated or applied as rules within parties. Quotas have contributed to the doubling of women's representation in parliaments around the world over the last 20 years.<sup>83</sup>

Different views about quotas reveal different beliefs about who is suitable for and capable of holding office. Opponents of quotas typically argue for selecting 'on merit'.<sup>84</sup> Given that current 'merit-based' systems have produced such disparities in representation, this implies that women and other under-represented groups are inherently less meritorious. Those who support quotas see structural and cultural barriers as discouraging and excluding people who would be as capable as (perhaps even more capable than) those who have found it comparatively easy to get their 'merit' recognised. In 2016, Vote Compass found that while a majority of Labor voters were in favour of gender quotas, 60 per cent of Coalition voters were against them, and men overall were nearly twice as likely as women to oppose quotas.<sup>85</sup>

In 1994, as a result of concerted activism by the ALP-aligned group EMILY's List and the National Labor Women's Network, the ALP introduced a quota requiring at least 35 per cent of winnable seats to have women candidates preselected. This was increased to 40 per cent in 2012 and a target of 50 per cent by 2025 was then set.<sup>86</sup> The Liberal Party has a target (set in 2016) to preselect women in 50 per cent of winnable seats by 2025, but calls for binding quotas have been rejected by party leaders. Instead, the party has established the Enid Lyons Fighting Fund to help close the gender gap in political finance.<sup>87</sup> While the Greens do not have formal quotas, the party has comparatively strong representation of women and LGBTIQ+ people (leading both the ALP and the Coalition parties in the proportion of candidates and elected representatives after the election in 2016).

Mechanisms to improve the representation of LGBTIQ+ people are less developed, but the ALP now has Rainbow Labor, a network operating within the party that was successful in changing the party's policy on marriage equality. After the 2016 federal election, the Queensland State Conference of the ALP adopted the first LGBTI quota in Australia, requiring at least 5 per cent LGBTI candidates in winnable Queensland seats for state, federal and local government elections.<sup>88</sup>

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83 Sawyer 2015.

84 Matthewson 2019.

85 Williams and Sawyer 2018.

86 <https://www.emilyslist.org.au/>

87 Gauja, Buckley and Curtin 2018.

88 Williams and Sawyer 2018, 646.

## Media, backlash and social change

Scholars including Linda Trimble, Carol Johnson, Julia Baird, Elizabeth van Acker and Blair Williams have shown how media coverage of women politicians gives platforms for gendered abuse, focuses on their appearance and trivialises their substantive contributions.<sup>89</sup> Women who perform femininity to an acceptable standard find that this is taken as delegitimising their value as professional politicians. Politicians who are mothers face questions about how they will be able to manage their public role while tending to their children's needs. On the other hand, women who do not perform conventional femininity to an acceptable standard find that this 'failure' brings into question their ability to fulfil their role – for instance, Julia Gillard's childlessness, which conservative commentators portrayed as making it impossible for her to relate to 'ordinary women'. Acceptable and unacceptable performances of femininity (and masculinity) are also assessed through the lenses of race, sexuality, class and dis/ability.

As Australia's first woman prime minister, Julia Gillard was subjected to extreme levels of misogynist abuse, particularly on social media and radio, but also in 'real life'. In 2011, the opposition leader stood in front of banners reading 'Juliar ... Bob Brown's Bitch' and 'Ditch the Witch' while speaking at a carbon tax rally. A Liberal–National Party fundraiser menu offered 'Julia Gillard quail' with 'small breasts, huge thighs and a big red box'.<sup>90</sup>

Gillard finally (after having avoided referring to her gender throughout her public life) spoke out against what she saw as the misogyny of then opposition leader Tony Abbott in a speech to parliament, which was subsequently shared and viewed on social media over three million times. The opposition and the mainstream media suggested that she had 'played the gender card' as a political tactic, while women's news sites and social media sharing indicated a very different and more supportive response. Trimble and Johnson have noted that the discourse of the 'gender card' and 'gender war' were used to try to silence people making an issue of inequality.<sup>91</sup>

On leaving politics, Julia Gillard argued that as a result of her prime ministership it would be easier for the next woman and the next woman after that. McLaren and Sawyer note that, while this might be true, her treatment suggests it may well be more difficult for the next feminist.<sup>92</sup> The backlash against Gillard emboldened anti-feminists, and potentially increased the polarisation of views about feminism and gender equality. It is notable that, in centre-right and far-right parties in Europe, men are more likely than women to identify as promoting gender equality, suggesting that it is riskier for women to do so than men.<sup>93</sup>

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89 Baird 2004; van Acker 1999; Williams 2017.

90 Jabour 2013.

91 Johnson 2015; Trimble 2016.

92 McLaren and Sawyer 2015.

93 Celis and Erzeel cited in Williams and Sawyer 2018, 642.

While Gillard is a prominent example, women, LGBTIQ+ people and people from other marginalised groups who publicly engage in politics face abuse, hate speech and at times violence – whether they are involved as candidates or media commentators or are active on social media or in their communities and workplaces. The ferocious online attacks on Yassmin Abdel-Magied, a young Sudanese-Australian engineer, broadcaster and writer who made a Facebook post on Anzac Day reading ‘LEST. WE. FORGET. Manus, Nauru, Syria, Palestine’, are another example of hate speech at the intersection of race and gender.<sup>94</sup> At the same time, effective communities and networks of marginalised people are flourishing, giving support and discursive resources to members engaged in politics.<sup>95</sup> Backlash and community-building effects are now being recognised as key elements of social change.

## Conclusions

More than ever, Australian political institutions are grappling with issues of gender and sexuality. At the same time, communities and movements are demanding that those with power use it to create a broader understanding of what politics is and who can be part of it. By integrating an awareness of gender and sexuality throughout the work of the discipline, political science can contribute to this process.

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<sup>94</sup> Shah 2019.

<sup>95</sup> Hutchison 2016.

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# Government–business relations

Michael de Percy and Heba Batainah

## Key terms/names

capitalism, co-design, co-governance, corporatism, disruption, globalisation, industry policy, liberalism, protectionism, regulation

The importance of the relationship between government and business is best captured in a rhetorical question: What is more important: strong government, prosperous business or civil society? The question is rhetorical because there is no correct answer. Strong government is necessary to provide a system of law and order; however, without prosperous businesses to pay taxes, it is difficult for government to collect the funds to perform its role. And civil society is necessary to hold governments and businesses to account; but if we take a Hobbesian<sup>1</sup> view of human society, civil society cannot exist without strong government undertaking many essential roles, including political representation, public provision, and maintaining law and order, defence, public safety, regulation, infrastructure and trading relations. Of course, in a modern economy, all three institutions are necessary to ensure a society has an appropriate level of stability, security and living standards for its members.

Although in times past the study of government–business relations focused on the nation-state, the phenomenon known as globalisation has had a significant

de Percy, Michael, and Heba Batainah (2019). Government–business relations. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Hobbes 1985 [1651].

impact on the way governments and businesses interact in the global economy.<sup>2</sup> Nevertheless, nation-states remain the legitimate political power within their jurisdictions, and global businesses operating within these jurisdictions are still subject to the laws of the host nation-state. In practice, the government–business relationship is influenced by national institutions and cultures and, in line with changing societal values and interests, remains necessarily dynamic.<sup>3</sup>

This chapter discusses the various aspects of government–business relations in the context of the capitalist economic system. It outlines the sectors of the economy, introduces the levels of analysis for understanding government–business relations and discusses the various ways that governments and businesses interact, before considering industry policy and the regulation of business. The chapter concludes with a discussion of some of the emerging issues for government–business relations, including the impact of disruptive technologies.

### Sectors of the economy

A central feature of the capitalist economic system is the idea of the market. The term ‘market’ can mean many different things, such as a physical space where goods and services are bought and sold (e.g. a shopping mall) or even a virtual space where the sale and purchase of goods and services is conducted completely online (e.g. eBay). The market is the incentive mechanism for the production and distribution of property, goods and services and, through ‘competitive interactions of businesses and consumers’, for the creation and dispersion of wealth.<sup>4</sup> Markets are often said to be ‘self-regulating’ through the laws of supply and demand, but they often require government regulation to ensure fair competition, prevent market abuse and provide a safety net (e.g. for the elderly and people with disabilities who are not able to participate actively in market relations).

In terms of typologies, markets can be classified into four broad categories: markets for goods and services, financial markets, markets for the sale and purchase of land and property, and labour markets, where employers and employees negotiate salaries and wages for work performed. Capitalist economic systems, and markets in particular, have an expansionary tendency.<sup>5</sup>

Economic activity within the capitalist system can be divided into three interrelated spheres of activity: the ‘for-profit’ private sector, government and the public sector and the civil society or not-for-profit sector. Although these spheres intersect in various ways in practice, the division of the sectors can be understood in terms of the legal standing of entities within each sector and their sources of

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2 Wanna 2003, 420–1.

3 Parkin and Hardcastle 2010, 352.

4 Ryan, Parker and Brown 2003, 24.

5 Stilwell 2002, 49–50.

revenue. For example, government agencies form part of the public sector and are established by various Acts of parliament; their major source of funding is tax revenues. Businesses form part of the private sector, are established, under the relevant laws, through articles of association and the investment of private funds to conduct commercial activity, and are funded by profits created through the production and sale of goods and services. The civil society or not-for-profit sector is funded by donations and gifts, and provides philanthropic, charitable or welfare services that are not provided by government or business and are designed to deliver some social benefit to members of the community.

In practice, the division between the three sectors is dynamic. Civil society organisations, locally, nationally and globally, often seek funding from government and business and may even enter into partnerships with the other sectors in performing their role. In Australia, for example, the former Commonwealth Employment Service, which provided job recruitment and search services for employers and employees, was replaced by a competitive network of private and civil society employment-sector providers (initially Job Network, then Job Services Australia, known as Job Active since 2015). In this case, as in others, the delineation between the three sectors is far from clear – the sectors tend to overlap in terms of funding sources and activities. Nevertheless, the underlying purposes of each sector remain an important conceptual framework for understanding the capitalist economic system as practised in nation-states. The various relationships between the sectors differ depending on local values, interests, cultures and circumstances, despite the homogenising effect often attributed to globalisation.<sup>6</sup>

#### Levels of analysis

There are three main levels of analysis that are useful in understanding government–business relations globally or within a nation-state. The *macro* level considers historical institutional choices and preferences at the national level and provides a general guide to the ‘proper’ role of the state in the market and in various sectors of the economy. The *meso* level considers government–business relations at the industry or sectoral level. This level of analysis is covered in detail in the sections on industry policy and regulation below. The third level of analysis is the *micro* level, which considers government–business relationships at the level of individual firms or projects.

At the macro level, the different ways that capitalism is practised within nation-states is often referred to as ‘varieties of capitalism.’<sup>7</sup> These differences stem from the intersection of economic and political institutions within nation-states, where institutions are defined as the formal and informal values, rules, routines and

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<sup>6</sup> Scholte 2008, 1476.

<sup>7</sup> Hall and Soskice 2001.

procedures that influence behaviour through what is considered by a given society to be 'appropriate'.<sup>8</sup> Hall and Soskice<sup>9</sup> differentiate between two main types of capitalism: liberal market economies and co-ordinated market economies. In liberal market economies, such as Australia, Canada, the USA, the UK and New Zealand, firms tend to operate at arm's length from other firms and governments, and interact through competition and formal contracting. In many ways, the 'invisible hand' of the market is left to guide the equilibrium of supply and demand of goods and services.<sup>10</sup> In co-ordinated market economies, such as Germany, Japan and Sweden, on the other hand, firms tend to be more collaborative in their relationships, and interactions with other firms and governments tend to be more strategic in attaining equilibrium in supply and demand.

While the macro level is useful in understanding comparative differences between countries *in general*, it is inherently weak in analysing what occurs at the meso or industry level, where practices within both liberal and co-ordinated market economies tend to be more diverse. For example, Australia's market economy is relatively young, in comparison to the market economy of the USA, with many Australian industries either entirely owned by governments (such as the postal, telecommunications and energy industries) or heavily subsidised by governments (such as the agricultural, mining, textiles and automotive manufacturing industries) until market reforms were introduced in the 1970s and 1980s in line with international trends. Further, Australia's health and education sectors, although increasingly subject to competitive pressures, remain predominantly government-owned or controlled, underpinned by social expectations that governments will continue to provide or fund these services. If we take the two extremes at either end of the varieties of capitalism spectrum – the competitive market economy of the USA on the right and Sweden's co-ordinated market economy on the left – Australia tends to fit somewhere in the middle, with competition occurring in some sectors of the economy and greater co-ordination occurring in others.<sup>11</sup>

The micro or firm level of analysis is typically adopted to examine the behaviour of firms in the political economy, such as participation by firms in business associations, strategic choices by firms in different policy environments, or to assess the extent of political activism by firms.<sup>12</sup>

While the scholarly study of government–business relations in the Australian context has been largely situated as a sub-field of policy studies, it is inherently multidisciplinary.<sup>13</sup> The different levels of analysis place greater emphasis on different aspects of the government–business relationship, encompassing international political economy at the macro level, policy studies at the meso level and

8 March and Olsen 1989; Peters 2005, 30.

9 Hall and Soskice 2001, 8.

10 Smith 2003 [1776].

11 Chaudhri, Samson and Kerin 2000, 21.

12 Arnold and Hussinger 2004; Bell and Warhurst 1993; Sen and te Velde 2008.

13 Bell and Wanna 1992, 5; Wanna 2003, 420.

business studies at the micro level. Understanding the levels of analysis can be useful in researching different aspects of government–business relations, broadening the potential field of academic literature that can be drawn upon for research and in formulating theories at the grand (highly abstract), middle-range (typically the result of a research project) and narrow-range (used to guide practice) levels.<sup>14</sup>

#### Government–business interactions

A number of scholarly disciplines have contributed to our understanding of how governments and businesses interact. For example, Jacoby<sup>15</sup> listed a variety of ways that government–business interactions occur in practice. Governments may attempt to stabilise the economic environment for businesses; subsidise some industries; promote business abroad; finance small and minority firms; purchase military hardware and other products from businesses; enter into joint or mixed ventures with businesses; tax businesses and make businesses tax collectors (such as the current arrangements for the Goods and Services Tax); regulate particular functions of businesses; engage in joint management of public utilities (such as ActewAGL); and sell postal services, power, government publications, police and fire protection, and many other commodities and services. Businesses, on the other hand, may consult with government informally or individually, or formally and collectively, through lobby groups such as the Business Council of Australia or through specialist lobbying firms; support political candidates financially or in other ways; or publicly criticise governments in an effort to influence the policy agenda (such as the Minerals Council of Australia’s campaigns against the Rudd government’s mining super-profits tax and the Gillard government’s carbon pricing scheme). Businesses may also launch campaigns against government policies through advertising and other forms of public appeal. Increasingly, businesses and executives lobby governments and make public appeals on issues that do not necessarily relate to the financial interests of their industries, such as when Qantas chief executive Alan Joyce spoke out in support of the ‘yes’ vote in the recent plebiscite on same-sex marriage in Australia.

There is a ‘rich tradition’ of the study of government–business relations at the national level in Australia.<sup>16</sup> Although state involvement in the market was the dominant paradigm for much of Australia’s early history, the impact of government intervention on the economy was not without its critics.<sup>17</sup> Coinciding with the rise of ‘neoliberalism’ and the New Right in the 1980s, Australia adopted an approach to managing the economy known locally as *economic rationalism*.<sup>18</sup> The traditional

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14 Merton 1968.

15 Jacoby 1975, 5–6.

16 Bell and Head 1992; Bell and Wanna 1992; Wanna 2003, 420.

17 Eggleston 1932; Hancock 1930; Kelly 1992; Smith 2006 [1887].

18 Pusey 1991.

industries were no longer protected by government (the Whitlam government had started to dismantle protection during the 1970s) and would be exposed to international competition. Up to this point in time, the nature of the government–business relationship in Australia was heavily focused on industry assistance, and competition regulation had only seriously been pursued since the establishment of the *Trade Practices Act 1974* (Cth).

Beginning in 1983, the market liberalisation agenda had gathered pace under the Hawke Labor government and the economy began to change significantly. Following on from the introduction of the Prices and Incomes Accords, a series of agreements between the Australian Labor Party and the Australian Council of Trade Unions, the government facilitated a tripartite, consensus-based power sharing arrangement between government, business and trade unions. This tripartite arrangement, facilitated by institutions such as the Economic Planning Advisory Council, became known as *corporatism* and attracted much study from government–business relations scholars.<sup>19</sup> A key principle of corporatism was consensus building between the three parties, with the major groups in the economy (theoretically) participating in decision making. As trade union membership represented about half of the workforce at the time, it was generally representative of the interests of labour.<sup>20</sup> With the election of the Howard Liberal–National (Coalition) government in 1996, however, corporatism was quickly dismantled,<sup>21</sup> and the decline in compulsory union membership saw union membership declining steadily from 1992 from traditional levels of almost 50 per cent of the workforce, to 14 per cent of the workforce by 2018.<sup>22</sup>

At the industry level, business scholars such as William Byrt<sup>23</sup> developed approaches to understanding the interaction between business and government by focusing on various elements of the relationship that affect business, such as regulation, consumerism, trade unions and public enterprises. There are a number of different approaches to studying government–business relations, but these approaches are much more than an analysis of the struggle for dominance between the two monsters – Leviathan (government) and Behemoth (business) – as the two tend to merge ‘in complex and specialised arrangements, producing a pattern of interaction which brings together both government and non-government bodies.’<sup>24</sup> One of the major industry-level studies of the ‘protective state’ and its ‘gradual transformation’ of the manufacturing industry in Australia<sup>25</sup> was conducted by political scientists Capling and Galligan in 1992.<sup>26</sup> More recently, scholars

19 Bell and Wanna 1992, 4; Wanna 2003, 421.

20 Hall and Soskice 2001, 20.

21 Head 1997.

22 Gilfillan and McGann 2018.

23 Byrt 1990.

24 Colebatch, Prasser and Nethercote 1997, xviii.

25 Wanna 2003, 423.

26 Capling and Galligan 1992.



considered government–business relations in light of globalisation and found, among other things, that local practices of government–business interaction persist.<sup>27</sup> This means that local effects of national culture, law and ideologies and the ‘appropriate’ role of the government in the economy cannot be overlooked when considering the government–business relationship.

Although individual studies in government–business relations continue, scholarly interest in the subject has been in general decline, with many Australian universities abandoning specific government–business relations subjects by 2017. This decline has coincided with turmoil in Australia’s political leadership, with prime ministers and governments changing frequently since 2007, preventing the stable, long-term approaches to government–business relations characteristic of the Hawke and Keating Labor and Howard Coalition governments. Yet, as will be seen in the section on emerging issues below, the topic is of increasing importance. We now turn to the major elements of the government–business relationship: industry policy and regulation.

### Industry policy

The term *sector* typically refers to the various firms that produce goods or services of a similar type, such as the mining, agricultural, manufacturing, transport, tourism and construction sectors. The term *industry* is usually a subclassification of a given sector. For example, the transport sector includes taxis, but the taxi industry is distinct from other transport industries due to its private, point-to-point transport focus. The taxi industry is also regulated in certain ways by the states and territories. While these distinctions are important for collecting statistics (and there are numerous classification standards), for our purposes the term *industry* will be used to refer to firms that produce similar products or services and will include the policy and regulatory institutions of the state that govern a particular industry.

Generally, industries are divided into three types: primary, secondary and tertiary. Primary industries are focused on the production of raw materials and typically include mining, agriculture, forestry and fishing. Secondary industries are those that use raw materials to produce goods, such as the manufacturing, engineering and construction industries. Tertiary industries are those that produce services rather than goods, such as wholesalers, retailers and transport. They can be further classified as quaternary (knowledge, such as education, media and telecommunications) and quinary (personal services, such as hospitality, health care and recreation) industries. These types of industries are important, and the relative industry mix in Australia has changed significantly over time, with the manufacturing industries declining significantly since protectionism was largely replaced by competitive markets in the final decades of the 20th century.

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27 McAllister, Davis and Moodie 2004; Parkin and Hardcastle 2010.

Under protectionism, policy instruments were used to restrict the impact of international competition. For example, secondary industries in Australia, such as the textile, clothing and footwear and automotive manufacturing industries, were protected by tariffs (government charges that increase the cost of cheaper, imported goods) and quotas (government-imposed limits on the number of goods imported). This approach to protecting domestic industries from international competition is known as *barrier protectionism*. Protectionism was a major form of industry policy in Australia and elsewhere from the end of the Second World War until recently. However, beginning in the 1970s, and in the 1980s under the Hawke government, Australia's economy, following international trends, was increasingly the subject of trade liberalisation and competition reform.<sup>28</sup> This meant that tariffs and quotas were reduced or removed and domestic industries, particularly the textile, clothing and footwear and automotive manufacturing industries, faced increasing international competition. By the second decade of the 21st century, cheaper labour costs overseas meant that Australian manufacturing declined and continue to decline as a result of the end of protectionism.<sup>29</sup>

One consequence of barrier protectionism for government–business relations was the concentration of lobbying forces from both manufacturing companies and the related trade unions. As these industries relied on government protection to prosper, both capital and labour had an interest in the ongoing success of the sector. The sunk costs of lobbying and compliance, in addition to higher wages supported by inflated prices, provided little incentive for protected industries to seek efficiencies. As international trends in trade liberalisation led to numerous free trade agreements with other nations, other heavily subsidised sectors, such as agriculture, were also subjected to competition. Debates over the benefits of free trade versus protection continue as a result of the 2008–10 Global Financial Crisis and, more recently, in the USA under the Trump administration. Nevertheless, there is bipartisan agreement that Australia has prospered under trade liberalisation, with the Department of Foreign Affairs under a Labor government admitting that:

The myth that lower tariffs destroy jobs has been debunked. Trade liberalisation has made the economy more flexible. The number of people employed in Australia in export-related activity in services such as finance, property and business services is increasing.<sup>30</sup>

Industry policy remains central to the government–business relationship, although as Australia continues to enter into free trade agreements under the rules-based trading regime monitored by the World Trade Organization, the types of policy instruments adopted have changed. Today, there are two major types of

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28 Emmery 1999.

29 ABS 2018.

30 DFAT 2010, 34.

industry policy that are compatible with the free market: passive and anticipatory industry policy. Passive industry policy does not mean that government does not make policy for industries; rather, government focuses on establishing conditions that support competition within all industries. This may include monetary policy, establishing trade agreements that are beneficial to businesses, enacting competition regulation to prevent monopolies and other non-competitive practices, reducing taxation and compliance costs, or incentivising research and development. Anticipatory industry policy involves governments making policies that target particular industries. In anticipatory industry policy, governments attempt to stimulate or assist certain industries to achieve desired economic outcomes. This can be politically risky as it requires governments to ‘pick winners’ – in effect, to predict what will happen in the future, and attempt to stimulate and incentivise firms in a particular industry to change their market behaviours.

For example, during the 2008–10 Global Financial Crisis, the Rudd government introduced a series of industry policies designed to stimulate the economy (or ‘fiscal stimuli’). A green car initiative was introduced to subsidise the automotive manufacturing industry to develop fuel-efficient vehicles, enabling the industry to compete internationally by using Australia’s highly skilled workforce to develop sophisticated technologies. In addition, funding was provided to schools for building halls and fences (to stimulate the construction industry), subsidies were provided to householders to install roof insulation and individuals receiving education assistance or family welfare payments were given a one-off cash payment of approximately \$900 to stimulate the retail sector. While not considered protectionism per se, this level of government intervention in the economy challenged the orthodoxy of the previous decades’ market reforms.

These types of intervention reflect *anticipatory industry policy*, where governments attempt to achieve economic objectives through direct intervention. Where anticipatory industry policy differs from protectionism, however, is that it tends to be for a specific purpose and for a short period of time. Protectionism, as practised in the postwar era, on the other hand, was a long-term, institutionalised policy designed to reduce the impacts of international competition. The Rudd government’s policies were designed to stimulate, not protect, the industry. Nevertheless, then Prime Minister Kevin Rudd wrote:

The time has come, off the back of the current crisis, to proclaim that the great neo-liberal experiment of the past 30 years has failed, that the emperor has no clothes. Neo-liberalism, and the free-market fundamentalism it has produced, has been revealed as little more than personal greed dressed up as an economic philosophy. And, ironically, it now falls to social democracy to prevent liberal capitalism from cannibalising itself.

Industry policy can be further classified into two different types (which may be either anticipatory or passive). *Horizontal industry policies* apply to all industries

(noting that definitions in the literature vary considerably). This may include research and development, the environment, skills education, human capital, infrastructure investment, innovation stimulus and so on.<sup>31</sup> *Vertical industry policy* is targeted at particular industries. Policy instruments such as tariffs and quotas are generally considered protectionist, and therefore inconsistent with modern ideas concerning global markets. Vertical industry policies, on the other hand, are not inconsistent with the rules established by the World Trade Organization if the intervention is focused on a particular outcome in the short term.

It is not unusual for governments to use a combination of horizontal and vertical measures to bring about structural change in the economy. For example, tariffs on Australian exports of sugar were not excluded from the Australia–United States Free Trade Agreement, which meant that the Australian sugar industry would not be competitive and would require transformation to adjust to the market conditions. The Howard government introduced the Sugar Industry Reform Program to help sugar cane farmers and harvester operators cope with the loss of protection. This program included welfare payments, crisis counselling services, industry-exit assistance, business planning and diversification assistance, retraining and other funding to assist those affected by the changes.<sup>32</sup>

Similarly, the Gillard Labor government introduced a carbon pricing taxation scheme, which was generally horizontal in that it was intended to affect industries other than road transport and agriculture, and later become a carbon emissions trading scheme. However, the Abbott Coalition government replaced the policy with the Direct Action Plan to fund carbon emissions reduction projects through an Emissions Reduction Fund, among other ‘green’ projects.

One of the challenges for vertical industry policy is the difficulty in ‘picking winners’. Some of the outcomes from recent industry policies include:

- The Rudd government’s Green Car Innovation Fund did little to stimulate the industry, and, once elected, the Abbott government wound up the scheme and did not support the industry further. In 2017, the last Holden vehicle rolled off the production line and car manufacturing in Australia ceased.
- The Rudd government’s Home Insulation Program led to the tragic deaths of four workers, numerous house fires resulting from the use of poor materials, the demotion of then Environment Minister Peter Garrett, and subsequently the Royal Commission into the Home Insulation Program.
- The Gillard government’s carbon pricing scheme was labelled a ‘carbon tax’, and a coalition of industry groups, known as the Australian Trade and Industry Alliance, launched a major campaign against it. The competition regulator, the Australian Competition and Consumer Commission, investigated complaints from consumers about false justifications for price increases, particularly

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31 Emmery 1999; Pelkmans 2008.

32 Thompson et al. 2010.

electricity providers falsely claiming that the carbon pricing scheme was responsible for price rises. The Abbott government's Direct Action Plan consisted of payments to businesses and effectively removed the cost of carbon emissions from industry and placed the burden on taxpayers.

Government–business relations in the area of industry policy have been far from ideal over the last decade. Not only have the constant changes in federal governments (and political leadership) created an uncertain operating environment for businesses, the lack of stability has also provided little incentive for businesses to invest in long-term strategy, especially in relation to environmental sustainability. We now turn to regulation, another important element of government–business relations.

### Regulating business

The rationale for regulation in a market economy stems from a number of concerns. While regulation may appear to interfere with the workings of the 'invisible hand' of the market, in the last few decades, most developed economies have been through phases of deregulation of industries, privatisation of government services and, more recently, re-regulation to address anti-competitive behaviours, to include the cost of *externalities* (such as environmental, social and other related impacts) not captured in the production process or where the market has failed. Regulation involves governments making laws to influence the behaviour of firms. This can include rules to prevent anti-competitive behaviour, to protect consumers from unfair trading practices, to establish safety and other standards, and to achieve other social or economic policy goals. Traditionally, governments consult with industry in establishing a regulatory regime to support certain policy goals. Once the regulatory model has been established, it is standard protocol for regulators to enforce the relevant laws, rather than contribute to policy debates, and their major function is to protect the public interest.

There are two major approaches to regulating businesses: *ex-ante* (before the event) and *ex-post* (after the event) regulation. *Ex-ante* regulation focuses on the structure of markets. This may include the number of firms in a given market, the conditions for entering a market, the degree of product differentiation and so on. *Ex-post* regulation is mostly concerned with the behaviour of firms or the way they conduct business. This may include how a firm relates to its competitors and customers. These two approaches to regulating businesses may be used in combination. For example, to enter the telecommunications industry, firms may need a specific level of capitalisation and may be required to purchase a telecommunications carrier licence before operating in the market. Once a firm has met the requirements to operate in the market, it may then be held accountable for its behaviour according to the rules that apply within that industry. Various

government and industry agencies may regulate firms concerning different issues, such as security cameras in taxis or pricing of consumer goods and services.

Types of regulation may be classified along a spectrum based on the extent of government intervention in the industry, ranging from government ownership and command and control to self-regulation and co-regulation, to incentives-based regulation designed to influence behaviours.<sup>33</sup> Command and control regulation involves the imposition of rules and standards backed up by criminal sanctions. Some of the advantages of this type of regulation include clear definitions of unacceptable behaviour, establishing performance standards supported by law and appearing politically decisive. Some disadvantages are that regulation can be complex and legalistic, defining acceptable standards can be difficult and the close relationship between the regulator and businesses can lead to what is known as *regulatory capture*. Regulatory capture occurs when the regulator begins to protect the interests of the industry itself, rather than protecting the public interest. In practice, the command and control model, at the extreme, involves government ownership of the entire industry.

At Federation, government ownership of the post, telegraph and telephone industries specifically excluded businesses from operating in these industries. Further, railways were owned by the state governments, and competition in freight services was restricted until a 1954 Privy Council decision ended the protection of the industry, paving the way for an increase in competition from other means of freight transport. It was not until the 1990s that telecommunications, electricity, gas and water services in Australia were subjected to competition. For much of the 20th century, it was believed that these industries were natural monopolies, where the economies of scale available to one entity operating in an industry provided the greatest efficiency, in that the cost of adding another subscriber or connection to the existing network was infinitesimal. Having more than one operator in such natural monopolies, it was assumed, would involve unnecessary investment and costs and therefore make the delivery of services inefficient. A step down from government ownership is a regulated monopoly. In this instance, the government establishes the rules for operating the privately owned monopoly and regulates the prices that the firm may charge (whether through price capping or limitations on the rate of return on investment). However, for the most part, natural monopoly theory has been made irrelevant by improvements in technology, particularly billing systems, and most utilities today are delivered via a competitive market.

In the telecommunications industry, for example, the regulatory framework uses a variety of different approaches to achieve the desired policy outcomes. For instance, the Department of Communications and the Arts (a government department) provides policy advice to the minister for communications for the telecommunications industry. Through legislation, the parliament establishes

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33 Hepburn 2006.

regulations for the telecommunications industry. The Australian Communications and Media Authority (ACMA) (a statutory authority) enforces the rules for entry into the telecommunications market and issues the relevant licenses (*ex-ante* regulation), the Australian Competition and Consumer Commission (ACCC) (a statutory authority) has a role to assess the impact of mergers and acquisitions (*ex-ante*) and a particular role for addressing anti-competitive behaviour (*ex-post* regulation), while the Telecommunications Industry Ombudsman (TIO) (an external ombudsman funded by the industry) deals with consumer complaints that are not resolved by the firm (*ex-post* regulation). In this case, the ACMA regulates using a command and control approach, the ACCC uses command and control in making decisions about its roles, and the industry, through the TIO, self-regulates (and funds the regulator) and agrees to abide by the decisions of the ombudsman.

Incentives-based regulation might include additional taxes to reduce the consumption of certain goods, such as those currently applied to tobacco products, or market-based instruments, such as a carbon emissions trading scheme. In a typical carbon emissions trading scheme, the government caps the allowable level of pollution and sells permits to businesses to pollute to that level. Businesses can then trade these permits with other businesses. In theory, as the price of permits increases, businesses will innovate to reduce their carbon emissions, thus gaining a competitive advantage over businesses that still need to pay for the pollution they generate. Other market-based mechanisms include the auction of radio frequency spectrum to mobile telephone, radio and television providers, or the provision of subsidies to encourage particular habits or activities under the Direct Action Plan, discussed above.<sup>34</sup>

Self-regulation occurs in many areas of private-sector activity, such as media and advertising, and many crucial professions, including the law, medicine, accounting and taxation services. Self-regulation places the onus of maintaining standards on the industry body, such as Ad Standards and the regulation of television advertising, and often includes tribunals and complaint mechanisms where alleged abuses can be aired and investigated. Participants in self-regulated areas of activity in essence agree to their behaviour and actions being monitored by their industry peers and to accept any punishment or redress awarded by whatever tribunal is empowered to consider disputes or complaints.

Each approach to regulation has its merits, and different mixes of approaches and types are used in different industries. An emerging idea in the regulation of businesses is regulatory co-design,<sup>35</sup> where governments and industry collaborate. Although there is some risk of regulatory capture, the approach can be useful in industries where technology is moving rapidly, or where the industry accepts that regulation is necessary but a suitable regulatory framework has not been established. One example of this approach is currently being trialled in the road

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<sup>34</sup> Hepburn 2006, 5.

<sup>35</sup> Productivity Commission 2017, 43.



transport industry. As heavy vehicles cause the most damage to the road network, a system of user charging has been in place for some time, but it is still some way from capturing the external costs of road damage. Working with the industry, the Department of Infrastructure, Regional Development and Cities has implemented the National Heavy Vehicle Charging Pilot. In the near future, various pricing options, which might include a reduction in fuel excise and vehicle registration fees, will be ‘mock billed’ and tested by road transport businesses, with a view to testing the new system on an opt-in basis paying with ‘real money’. Technology is enabling such opportunities to improve regulation, but it can introduce new problems for government–business relations, which we discuss in the next section.

#### Emerging issues – disruptive influences

The taxi industry in Australia was one of the last regulated monopolies to be subjected to market liberalisation and disruptive technologies. As late as 2013, a report on the Victorian taxi industry made no mention of the emerging ride-sharing industry led globally by Uber, a multinational corporation. Ride-sharing businesses are part of the growing sharing economy, where individuals use their private assets, such as their cars or their houses (with businesses such as Airbnb), to sell services using proprietary smartphone ‘apps’ that provide the marketing and billing systems. While the Australian Capital Territory anticipated ride-sharing and reformed the taxi industry, the states did not. Allegedly, Uber began operating throughout Australia despite laws prohibiting unregulated businesses from operating in the point-to-point transport industry. This presented a complex problem for the state governments. Consumers wanted to use ride-sharing because it was cheaper and there was a perceived lack of customer service from the existing regulated taxi operators. Governments were forced to reform the industry, resulting in protests from taxi operators, many of whom saw the value of their investment in taxi licences reduced significantly with little time to adjust to the changing conditions. State governments were forced to compensate taxi licence owners and to implement packages to ameliorate the effects of industry disruption. Taxi operators have commenced a class action against Uber seeking further compensation for lost business.

Unlike the approach adopted with sugar industry, the taxi industry disruption was almost a complete surprise to regulators and taxi operators alike. This level of disruption could have been avoided had the reforms been introduced years before, but neither government nor the industry was prepared. The most striking part of the introduction of ride-sharing was not so much the advances in technology, but the way that the technology has been used globally to disrupt traditional industries. While other jurisdictions have attempted to ban ride-sharing operators, consumer demands are forcing governments to enable new services, thus challenging the command and control approach where it matters most – at the ballot box.



## Conclusions

Businesses in Australia are becoming increasingly involved with the public and civil society sectors in complex ways, and the government–business relationship is increasing in importance. However, political instability, along with disruptive technologies, mean the future of this relationship is uncertain. Further, emerging social and political issues, such as the failure of affirmative action laws to address gender inequalities in pay and the number of women in leadership positions in the workplace, indicate that governments cannot solve these problems in isolation. In the midst of decreasing trust in government in Australia, increased citizen participation in policy making is seen as one way to improve the legitimacy of government by bringing businesses and citizens into a system of co-governance. Yet after a decade of political instability, and recent events suggesting that the instability will continue, a significant departure from traditional approaches to government–business relations is politically risky. While the study of government–business relations may have peaked in the 1990s, it seems time for a revival of this important field in political studies.

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# Indigenous politics

Diana Perche and Jason O'Neil

## Key terms/names

constitutional recognition, Country, First Nations, First Peoples, Indigenous, invasion, the Intervention, self-determination, settler colonialism, sovereignty, treaty/'Makarrata' (Yolŋu word)

Indigenous politics is possibly one of the most complex and misunderstood areas of politics in Australia. Indigenous issues are often presented as particularly contentious, and the divergence of interests between governments, business, the community and First Peoples themselves is frequently emphasised. We know that Indigenous issues do not have much salience in public opinion polls.<sup>1</sup> Nevertheless, political leaders at both state and federal levels have often sought to use Indigenous issues to score points in public debates, demonstrating their ideological credentials. Many debates in Indigenous affairs are framed around deep-seated conflicts over values such as choice, equality, rights, responsibility, diversity, self-determination and sovereignty.

The major parties have moved away from the bipartisanship that surrounded the 1967 constitutional referendum and the passage of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth). Instead, over the past three decades, we have seen divisive and confusing debates around the *Mabo* case and the recognition of

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1 Goot and Rowse 2007.

native title;<sup>2</sup> the creation and abolition of the Aboriginal and Torres Strait Islander Commission (ATSIC); the move towards 'mainstreaming' of Indigenous government services after decades of self-determination; the acknowledgement of the Stolen Generations culminating in the apology given by Prime Minister Kevin Rudd in 2008; the Northern Territory Emergency Response (the Intervention), affecting residents of remote communities, introduced by the federal government under Liberal–National Coalition (Coalition) Prime Minister John Howard in 2007; and the current debate around constitutional recognition, treaty and a 'Voice' to parliament.

It is difficult for a relatively small minority to gain a genuine voice for their issues in the mainstream media and government. It is also challenging to develop effective policies without an understanding of First Nations culture and communities. This chapter breaks down some of these difficulties by:

- exploring the identities of First Peoples and how they understand their place within Australia
- considering the structural barriers to political participation by First Peoples
- briefly explaining the history of activism by First Peoples since colonisation.

We conclude by reflecting on whether there is one 'Aboriginal movement' or many, and considering the significance of the *Uluru statement from the heart* and the return to nation-based identities.

Who are the First Peoples in Australia?

It is useful to clarify the terminology that is used in this chapter. First Peoples in Australia have been called many things by non-Indigenous people since the 18th century. Some of these are now recognised as outdated, being based in theories of racial difference. Even the terms 'Aboriginal' and 'Torres Strait Islander' describe legally defined identities that have been imposed. Prior to the arrival of Europeans, there were no 'Aboriginal' people in Australia – there were Dharug, Wiradjuri, Larrakia, Noongar, Ngarrindjeri and so on, and these identities remain important today. The authors of this chapter have elected to use the collective terms 'First Peoples' and 'First Nations', in recognition of this history and the diversity of First Peoples. The two terms are used interchangeably, depending on whether the emphasis is on Indigenous Australians as collective peoples or as collective polities.

Legal definitions of identity are often debated, and sometimes disparaged, and it is important to understand the ways in which identity can be externally imposed or denied. In public policy, the 'Commonwealth definition' adopted by the government in the late 1970s remains current for the purposes of determining eligibility for

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2 *Mabo v Queensland (No 2)* [1992] HCA 23 (*Mabo*).

Indigenous-specific programs and employment in identified positions. It determines Indigenous status based on three criteria:

- that the person is of Aboriginal (or Torres Strait Islander) descent
- that they identify as Aboriginal or Torres Strait Islander
- that they are accepted as such by the community in which they live.<sup>3</sup>

These criteria have been difficult for some people to satisfy, particularly members of the Stolen Generations who have lost links to their birth families and their communities. For many First Peoples living in cities or country towns throughout most of the 20th century, it was preferable to deny Aboriginal heritage or avoid connecting with other Aboriginal people, out of fear of racism and social exclusion.<sup>4</sup>

The principle of self-identification is recognised in the *United Nations Declaration on the Rights of Indigenous Peoples*, which states: 'Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions.'<sup>5</sup> The damage done to First Nations through colonisation, with the associated loss of land, culture, language and connection to kin, has made this very difficult for many First Peoples, even today. This is sometimes reflected in present-day conflicts over native title, recognition of traditional ownership and governance of organisations and communities.

The importance of self-identification is clear when we consider the Commonwealth's official statistics on the size of the First Nations population in Australia. The 2016 Census counted 649,171 Aboriginal and Torres Strait Islanders – 2.8 per cent of Australia's population.<sup>6</sup> While First Peoples make up over 25 per cent of the population of the Northern Territory (NT) (over 58,248), the largest numerical population lives in the states of New South Wales (NSW) (216,176) and Queensland (186,482). Aboriginal and Torres Strait Islander people are more likely than non-Indigenous people to live in remote or very remote parts of Australia; nevertheless, over one-third of the Indigenous population lives in capital cities.

There are hundreds of different First Nations in Australia, with different cultures, traditions, lore and languages. First Peoples believe they were born out of 'Country'. Country represents a specific area of land and water, but is not reducible to just the geography of the land and its flora and fauna. Each Nation belongs to and is a part of Country, which they are responsible for, born from and live with in a mutually beneficial relationship. All elements of a First People's Country connected not only with each other but also with other Peoples' Country. In English, Country is an expression of First Peoples' understanding of the cosmos or 'philosophy of existence'.<sup>7</sup>

3 Gardiner-Garden 2003.

4 Read 2016.

5 United Nations 2007, article 33.

6 ABS 2017. Note that the Australian Bureau of Statistics recognises that the Census undercounts the Indigenous population, and projected estimates released in 2018 indicate that the population in 2016 was 798,400 or 3.3% of the Australian population. See ABS 2018 for more detail.

7 Weir 2012, 3.

While their cultures and languages differ widely, all First Peoples have a spiritual connection to Country, to the land of their ancestors and its inhabitants. This is because First Peoples believe that land, people and the laws that govern them all were created at the same time by their ancestral creation beings. There is an inherent understanding that all things are connected: First Peoples are connected to Country through their ancestors, who were born from Country. These connections are expressed here by Yolŋu elders:

Bawaka is our homeland, our Country. Country means the land, but it means so much more too ... When ngapaki [non-Indigenous people] come to Bawaka, we ask Bawaka Country to welcome you. Bawaka is alive, it talks to us and cares for us ... We welcome you so that the land and the sea, the tides, the currents, the plants, the animals, the winds, the rocks, the songs and the dreams recognise you.

And we are Bawaka Country too, Yolŋu people, our ancestors and our unborn children, with our Yolŋu languages (dhäruk), our Yolŋu knowledge and our Yolŋu Law (Rom). People are Country too ... Country will welcome you as long as you respect it, as long as you behave well and care for the land and the nature, care for each other as family, as kin.

Country is everything in balance, everything connected as kin. Country nourishes us, and we nourish Country. We can't be separated from it ... We live on Country, we won't be treated as if we have no strength, no knowledge, no Law, no language. Country makes us strong. Country cares, Country nourishes, Country is who we are. We are Yolŋu.<sup>8</sup>

This connection, and the wealth of Indigenous knowledges and science that come with it, have largely been overlooked by governments throughout settler-colonial history. Since the earliest days of colonisation, land has been seen as a commodity to be exploited. This is the antithesis of First Peoples' connection to Country – a living entity that is to be cared for and cultivated only in accordance with its needs and limitations.

An important aspect of the relationship between First Peoples and Country is the cultural protocol of not speaking for someone else's Country. First Peoples are quick to reject anyone who purports to speak on their behalf. In its simplest form, this is a recognition of each People's custodianship over their own Country. In a political context, every Nation has its own issues, priorities and internal politics; local decision making involves a long process of consensus building to ensure that the right decision is made and that it is done in a culturally appropriate way. At an individual level, it is important that everybody's voice is heard. Indigenous governance is built on consensus-making: sitting down and talking through an issue until there is a solution that everyone can accept. When this diversity of views is left unrecognised, it can lead to issues of misrepresentation and inappropriate decision

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8 Burarrwanga et al. 2014.

making. This is often the case when governments fail to tailor their policies to local needs or when one individual is called on to speak on behalf of all First Peoples.

#### Political activism and engagement

The arrival of European settlers in Sydney Cove in 1788 was not a peaceful process. When understood from the standpoint of the clans of the Eora Nation, the first to encounter the settlers as they established the British penal colony, it was the beginning of an invasion. Despite being weakened by disease and malnutrition, as their food sources were destroyed or made inaccessible, the First Peoples were not passive, and violence spread as the settlers sought to extend their control over the Country of neighbouring Nations. Violent battles, revenge attacks and reprisals were common in the early years of the colony, and losses in what we now know as the 'Frontier Wars' were severe.

By the 1830s, colonial governments had begun to move Aboriginal people away from settlements, onto reserves and missions, under supervision, and eventually established the regime of 'protection', under which Aboriginal people were segregated, prevented from moving freely and subjected to 'civilising and Christianising' by missionaries and superintendents. Children with lighter skin or mixed parentage were removed. First Peoples had their freedom of movement and freedom of association constrained under the supervision of the Protection Boards. All of these actions combined are now understood to be acts of genocide, seeking to 'eliminate the native.'<sup>9</sup> First Peoples continued to resist the power of the settlers through this period with overt political tactics, such as petitions, rebellions and formal complaints to authorities about their treatment and conditions, often demanding the right to own land, and through less visible actions, including maintaining culture and language in secret.

By the end of the First World War, many reserves were closing in the south, as land was reallocated to soldier settlement schemes and governments found the costs of maintaining reserves and providing rations and housing increasingly prohibitive. Many First Peoples were forced to live on the fringes of urban settlements, relying on precarious low-paid employment. In the north, where frontier conflicts continued into the 1920s, large reserves were still being used to restrict the movements of First Peoples, and to suppress culture and language in coercive and punitive environments, especially in Queensland. The impact of this violence, racism and exclusion continues to affect many First Peoples today, in the form of intergenerational trauma.

First Nations political activity was very much constrained by government, but this does not mean that it was non-existent. On missions and reserves, resistance took many forms, such as women's ongoing efforts to preserve culture and kinship

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9 Wolfe 2006.



ties against the wishes of the authorities.<sup>10</sup> Early political organisations, such as the Australian Aboriginal Progressive Association, founded by Fred Maynard and Tom Lacey, and later the Australian Aborigines' League under the leadership of William Cooper, Doug Nicholls and Margaret Tucker, called for land and citizenship rights in the 1920s and 1930s. A significant protest was organised in Sydney on 26 January 1938, known as the 'Day of Mourning,' disrupting celebrations of the 150th anniversary of British settlement in Australia and prompting Prime Minister Joseph Lyons to meet with a delegation of men and women to discuss their concerns. These organisations received support from non-Indigenous activists, including Christian groups, trade unionists and members of the Communist Party of Australia.

By the 1960s, activism around Indigenous issues had become much more visible, and First Nations voices were increasingly being reported by the media. The government's policies of segregation and 'protection' were abandoned in favour of 'assimilation.' Governments began to extend essential services and entitlements to Aboriginal people, including access to education and health care and eligibility for welfare payments.<sup>11</sup> In return, First Peoples were expected to abandon their culture and 'learn' to live their lives as white Australians did. These assimilationist policies allowed greater freedom of movement and access to education and employment for First Peoples, but their lack of equal treatment as Australian citizens became increasingly obvious to the wider public. The Australian government faced international criticism over the poverty and exclusion of First Peoples.<sup>12</sup> Meanwhile, the civil rights movement – a coalition of activists including feminists, Christians and trade unionists – focused on the campaign to give Aboriginal people 'citizenship' by amending the Constitution.<sup>13</sup> In reality, the 1967 referendum was more limited in its impact: it removed the provision in the Constitution that excluded Aboriginal people from being counted in the Census and gave the Commonwealth the power to legislate on issues affecting Aboriginal people, a measure that activists hoped would override the obvious neglect of First Peoples' welfare by state and territory governments.<sup>14</sup>

The apparent achievement of formal political equality for First Peoples as a result of the civil rights movement in the 1960s satisfied many white activists, but it was soon clear that little would change the substantive inequality experienced by First Peoples, particularly economic inequality and poverty.<sup>15</sup> Land rights were the subject of much of the political activism during this period, both in terms of the rights of First Nations to make decisions about what happens on their traditional lands and in terms of the potential for land ownership rights to be the basis of economic development – a path out of poverty. The spiritual significance of Country and its importance as the basis of law and social and cultural wellbeing

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10 Goodall 1995.

11 Haebich 2008.

12 Clark 2008.

13 Chesterman 2005.

14 Attwood and Markus 2007.

15 Taffe 2005.

was also emphasised by First Peoples. A number of key flashpoints attracted attention in metropolitan areas, such as the Yolŋu protests over bauxite mining at Yirrkala and the Gurindji walk-off at Wave Hill, where aggrieved station hands demanded the restoration of their land.<sup>16</sup>

Land rights were also a significant part of the demands made by protesters at the Aboriginal Tent Embassy, established in January 1972 on the lawns in front of Parliament House in Canberra. For the Commonwealth, the struggle for land rights was ultimately an issue that could not be ignored, and the Labor Party, under the leadership of Gough Whitlam, worked on developing a policy to legislate for land rights in the NT. This legislation was ultimately passed by Malcolm Fraser's Liberal government in 1976. Many vested interests, such as mining companies and pastoralists, fiercely opposed the land rights legislation. They were supported by the NT government in resisting claims. First Nations activists were obliged to contest claims and defend hard-won rights for many years. As Arrente activist and former Director of the Central Land Council Bruce ('Tracker') Tilmouth observed, 'land rights took a lot of getting, by a lot of people'.<sup>17</sup>

First Nations have continued to force issues onto the government's agenda through protest, advocacy and sustained campaigns. In many areas, activists have worked for long periods of time to achieve recognition for significant issues, struggling to gain acceptance of the problems in the face of government and media indifference or active resistance from vested interests. For example, Meriam man Eddie Koiki Mabo and others pursued their claim for recognition of ownership over land in the Torres Strait in a series of court cases against the Queensland government, which lasted for over a decade, and eventually resulted in the significant *Mabo* case decided by the High Court in 1992 and the subsequent passing of the *Native Title Act 1993* (Cth) by the Keating Labor government.

In several cases, the Commonwealth government has been obliged to respond to First Nations advocacy by establishing wide-reaching inquiries. These have substantially changed the debate around Indigenous affairs over time. Notable inquiries include the Royal Commission into Aboriginal Deaths in Custody (1991) and the inquiry into the Stolen Generations (1997). Both allowed First Peoples to be heard and reported. Both challenged accepted narratives of Australia, pointing to the racism embedded in institutions, policy decisions and society. More recently, the Royal Commission into the Detention and Protection of Children in the Northern Territory (2017) has shown that institutionalised racism has not diminished in many parts of the Australian political system.<sup>18</sup>

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16 Attwood 2003.

17 Tilmouth 1998.

18 Royal Commission into the Detention and Protection of Children in the Northern Territory 2017.

*Indigenous organisations and leadership*

The 1960s and 1970s saw First Peoples push for self-determination, in recognition of their unique status as Indigenous peoples and in pursuit of their own solutions to disadvantage and dispossession. With cautious support from the Whitlam Labor government, First Nations people put self-determination into practice by establishing Indigenous organisations such as land councils, community-controlled health services, charities and social enterprises. First Peoples needed legal entities to hold the title for land rights and to negotiate with mining interests. Organisations like the Aboriginal Legal Service and Aboriginal Medical Service were started by First Peoples to meet their communities' legal and medical needs. These organisations seek to maintain independence from the government of the day, but many rely on government funding to operate. Indigenous organisations are now widespread, delivering services to local communities, employing substantial numbers of First Peoples and acting as representative bodies.

Successful Indigenous organisations and businesses have empowered First Peoples to attain new levels of wealth and success within Australia's political and economic system. Individuals who achieve this success are often identified as Aboriginal or Indigenous 'leaders' by governments and the mainstream media. This can lead to controversy because First Peoples identify very strongly with their Elders. Elders are the leaders of Indigenous families and communities. People do not become Elders simply by virtue of age. Although they may garner respect due to seniority, they will not be recognised by the wider community without a level of cultural knowledge and leadership.<sup>19</sup> It is this cultural knowledge that is the source of authority within First Nations. Elders are respected as knowledge holders – the custodians of knowledge passed down to them by their own Elders about the proper way to do things according to obligations to Country and lore.

Leadership is a contentious issue in Indigenous politics.<sup>20</sup> It cannot be assumed that a democratically elected leader holds legitimate authority in an Indigenous context. This is one reason why ATSIC was subject to criticism by First Peoples: the commissioners were elected in a democratic process but were not seen as legitimate representatives of the regions and peoples they served.<sup>21</sup> When governance is structured to meet the needs of the settler-colonial state, it is easily critiqued as denying First Nations sovereignty, and the cultural authority held by Elders and Traditional Owners over their Country. Media and government departments need to be mindful of singling out Indigenous individuals because of their success or qualifications within the Australian system, as they may lack cultural authority within the community. This is important because governments have a reputation of woefully inadequate consultation with First Nations. Finding the right people to talk to – those who have the authority and knowledge relevant to the issue –

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19 Yunupingu 2016.

20 Maddison 2009.

21 Smith 2001, 168–9.

can be a difficult task. This is the heart of the problem of treating First Nations as a broad Aboriginal or Indigenous population, rather than as a diverse collection of communities with identities independent of each other and of the broader Australian population.

*Case example: Seed Indigenous Youth Climate Network and climate justice*

The relationship between First Peoples and Country means that environmental issues are understood as essential to protecting Country, culture and First Nations livelihoods. Despite this, the voices of First Nations people are often absent in debates on environmental issues. Seed Indigenous Youth Climate Network (Seed) is an organisation founded in 2014 by First Nations young people that works to empower First Nations communities and individuals to campaign against fossil fuel extraction on their Country and for climate justice. Seed is concerned with climate 'justice' because climate change disproportionately affects those who have contributed the least to carbon emissions, including young First Nations people.<sup>22</sup>

Seed has been involved in two major campaigns. They have supported First Nations communities in the NT to learn about the impacts of hydraulic fracturing (fracking) and to campaign against fracking being allowed on their Country. Seed has also collaborated with other organisations in the Stop Adani movement, opposing the Carmichael coal mine being built on Wangan and Jagalingou Country.

The model of activism used by Seed involves community-based education of First Nations peoples on the potential impacts of fossil fuels on Country; training First Nations young people to be grassroots campaigners and elevate the voice of First Peoples; collaborating with other environmental organisations to raise awareness of their own campaigns; and aspiring to make climate change an Indigenous issue.

The work of Seed and young First Peoples campaigning for climate justice is giving a voice to communities that are both the most invested in the wellbeing of Country and the first to feel the impacts of climate change.

Barriers to engagement and participation

Like other minorities, First Peoples face considerable structural barriers to full participation in the Australian political system. It is important to recognise that, in the case of the First Nations, these structures have been firmly entrenched since the earliest days of European colonisation. Settler law and institutions took no account of the existence of First Peoples, deliberately ignored their ownership of the land and denied their sovereignty. In this section, we will briefly consider some of the factors that continue to prevent Aboriginal and Torres Strait Islander peoples

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22 Seed Indigenous Youth Climate Network n.d.

from enjoying political equality. These include obstacles to political representation, institutional impediments to accountability and the role of the media.

The Australian Constitution explicitly excluded Aboriginal people from the newly formed political community, and First Peoples were not included in the constitutional conventions leading to Federation. Aboriginal people were not given the right to vote in federal elections until 1962; even after that date, voting was not compulsory for Aboriginal people. The franchise for Aboriginal citizens had been inconsistently applied and even occasionally withdrawn by state governments throughout the first half of the 20th century. Under pressure from the Commonwealth, all state jurisdictions legislated the right to vote and to stand for election for First Peoples during the 1960s, with Queensland the last to conform in 1965.<sup>23</sup> In some jurisdictions, little effort was made to encourage enrolment until compulsory voting was finally extended to Indigenous people in 1984.<sup>24</sup>

Even after gaining the vote, it proved extremely difficult for First Peoples to gain representation in parliaments. The relatively small First Nations population is scattered across many electorates. The majoritarian electoral system guarantees that a substantial number of electorates are 'safe seats', where a large majority of voters favour one or the other major party and minority voices are easily overlooked. Furthermore, the dominance of the major parties means that candidates most often rely on party support to get elected, and Indigenous people have, until recently, only very rarely been preselected by major parties to run for election, especially for winnable seats. The first Indigenous member of the federal parliament was Neville Bonner, Liberal senator for Queensland, who served from 1971 to 1983. Aden Ridgeway was the second, elected in 1998 as senator for NSW, representing the Australian Democrats, and serving one term. The first Indigenous member of the House of Representatives was not elected until 2010, when Liberal candidate Ken Wyatt, a Noongar man, became the member for the Western Australian (WA) seat of Hasluck. The number of Indigenous members of parliament at the state and territory levels remains very small, with the exception of the NT.<sup>25</sup>

The lack of parliamentary representation for First Nations has received critical attention in recent years, and political parties have much work to do in ensuring that First Peoples are preselected as candidates. The 2016 federal election was notable because a record number of 17 Indigenous candidates stood for election across the nation, of which 11 were preselected by either Labor or the Coalition.<sup>26</sup> The 2019 federal election saw 22 First Nations candidates campaigning, though only eight of these were running for major parties, and few in winnable seats.<sup>27</sup>

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23 AEC 2017; Attwood 2003.

24 Goot 2006.

25 Gobbett 2017.

26 Morgan and Mandybur 2016; Perche 2018.

27 Perche 2019.

Following the 2016 election, albeit briefly, the number of Indigenous members of parliament rose to a peak of five, including Ken Wyatt (Liberal, Hasluck) and Linda Burney (Labor, Barton) in the House of Representatives, and Patrick Dodson (Labor, WA), Malarndirri McCarthy (Labor, NT) and Jacqui Lambie (Jacqui Lambie Network, Tasmania) in the Senate.

Once elected, the challenges of working effectively in a white institution can be enormous. The adversarial debating system, the majoritarian electoral system, which allows little room for consensus building, and the dominance of the two major parties, which frames issues as binary decisions, all work against the First Peoples' traditional forms of decision making. Maddison observes the 'representational dilemmas' experienced by First Nations members of parliament, as elected representatives are constrained by party discipline and are not free to speak against the party line, even on issues that may negatively affect First Peoples.<sup>28</sup> Nor can they easily represent the diverse interests of all First Peoples, including those outside their own electorates. The need to manage expectations in the electorate is often challenging.

Despite these constraints, the presence of First Nations members of parliament is significant. They reflect the presence of First Nations people in the wider community and give the otherwise white institution greater legitimacy. First Nations members of parliament take opportunities to present different perspectives in debates and committee inquiries. This has proven particularly important in the Senate estimates committee process, where Labor Senators McCarthy and Dodson have used their practical understanding of the impact of government policy in remote parts of Australia to interrogate ministers and bureaucrats working in Indigenous affairs and to hold the government more effectively to account for the impact of its policies in Indigenous communities. Finally, there is undoubtedly strength in numbers, and solidarity can stretch across the parliamentary chamber, as the member for Barton, Linda Burney, noted in 2018:

The wonderful thing is that we [the Labor Party] have a First Nations caucus, and we have a very good relationship amongst the Indigenous MPs, no matter what part of Parliament we're on. We have a good relationship collectively, and we meet informally. That's the mechanics, and the framework we're working in.<sup>29</sup>

Parliamentary representation is not enough on its own to ensure that governments are held to account for decisions affecting First Peoples. Indeed, detrimental policies are frequently made by governments driven by ideological agendas or bureaucratic misunderstanding of the issues. The Commonwealth government's winding back of native title law and the abolition of ATSIC under Prime Minister John Howard are notable examples, as are the Labor government's decisions under

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28 Maddison 2010.

29 Burney 2018.

Prime Ministers Julia Gillard and Kevin Rudd to dismantle the successful Community Development Employment Program and refuse to consider compensation for members of the Stolen Generations following the apology in 2008. In each case, government policy reflected dominant settler ideological views about the inappropriateness of 'separate' or 'different' treatment of First Peoples compared to the non-Indigenous population, and dismissed calls for redress or recognition of the special status of First Nations as sovereign peoples with specific rights. A more recent example is the Community Development Program introduced by the Abbott Coalition government, a punitive form of 'Work for the Dole' targeting people living in remote parts of Australia, with poorly designed 'work-related activities' alongside severe penalties for failing to attend the activities five days a week, all year round.

In the most striking example, the Howard government's decision to impose an intervention on remote communities in the NT was rushed through parliament in 2007, with no opportunity to consider the perspectives of First Nations and those affected, in a crisis-driven response to the problem of child sexual abuse in some remote Indigenous communities. The extreme and widely criticised response included compulsory welfare quarantining, enforced health checks and school attendance for children, alcohol bans, increased police presence, changes to housing tenure, abolition of the permit system controlling access to Aboriginal-owned land and compulsory acquisition of leases over townships on Aboriginal land. The initial rollout of the Intervention included army and police officers and the installation of a 'Government Business Manager' in each community.

The targeted nature of these measures required the government to suspend the *Racial Discrimination Act 1975* (Cth), underlining the illegitimate nature of the Intervention. For some observers, the Howard government appeared opportunistic, using the cover of a 'crisis' in remote communities to justify the rapid implementation of unpopular and far-reaching changes that it had wanted to introduce, in particular the imposition of township leases and the removal of permits controlling access to Aboriginal land.<sup>30</sup> Others noted the lack of evidence base for the policy measures<sup>31</sup> and the absence of logical connections between the imposed policies and the problem of child abuse that had been identified in the original report that triggered the crisis – the *Ampe akelyernemane meke mekarle* ('Little children are sacred') report.<sup>32</sup> The Howard government lost the election immediately after rolling out the Intervention in the prescribed communities, but the incoming Rudd government chose to extend it by another five years and expand its reach to more communities, despite criticism and clear opposition from many of the First Peoples affected.<sup>33</sup>

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30 Turner and Watson 2007.

31 Behrendt 2007.

32 Anderson and Wild 2007.

33 Altman and Russell 2012.



Sullivan explains that this lack of accountability is because the intended audience is not the First Peoples, but rather:

The wishes of white Australia, the context in which those wishes are formed largely through mass media images and reporting, and the ability of government to convince white Australia of adequate funding, appropriate programs and commensurate performance are significantly more influential than the voices of Aboriginal citizens. One of the greatest inhibitors of Aboriginal development is that Aboriginal policy is formulated for the non-Aboriginal public.<sup>34</sup>

Yolŋu Elder and leader Galarrwuy Yunupingu has observed the same phenomenon over decades of pursuing legislative and policy reform for his people, engaging with both Labor and Liberal governments. He points to the deeper settler logic that prevents genuine responses to First Nations demands for change:

All the prime ministers I have known have been friendly to me, but I mark them all hard. None of them has done what I asked, or delivered what they promised ... For a prime minister is beholden to his party and to the parliament, which in turn is held by the Australian people. And the Australian people seem to disapprove of my simple truths, or the idea of proper reconciliation. The Australian people do not wish to recognise me for who I am – with all that this brings – and it is the Australian people whom the politicians fear. The Australian people know that their success is built on the taking of the land, in making the country their own, which they did at the expense of so many languages and ceremonies and songlines – and people – now destroyed.<sup>35</sup>

The challenge of holding governments to account for policies targeting First Peoples is even more complex given the overlapping responsibilities of the Commonwealth and state and territory governments and the opaque nature of federal–state financial arrangements, which see Commonwealth funds disbursed to states and territories to spend on disadvantaged populations, without any clear lines of accountability.<sup>36</sup> The perennial issue of overcrowded housing on Aboriginal-owned land in the NT is a clear example of the blame-shifting that can occur as funds are allocated by one level of government and spent by another, with poor outcomes. Similarly, the Commonwealth's 'Closing the Gap' policy, designed to close gaps in health, employment, education and other outcomes between Indigenous and non-Indigenous people, has failed to meet many of the targets originally set in 2008, but responsibility for the failure is difficult to trace due to the multiple departments and agencies involved, across two levels of government.

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34 Sullivan 2011, 76.

35 Yunupingu 2016, 29.

36 Dillon and Westbury 2007.



The attention paid by mainstream media to Indigenous affairs is minimal, as a rule, with occasional bursts of intense, almost voyeuristic scrutiny.<sup>37</sup> This is, in part, because assumptions are made in newsrooms that stories about Indigenous affairs are not of interest to urban audiences on the east coast.<sup>38</sup> Few media outlets employ journalists who specialise in Indigenous affairs. Furthermore, journalists' understanding of the lives and circumstances of those living in remote Indigenous communities is usually extremely limited, given the lack of ongoing contact and time spent in the communities, along with language and cultural barriers.<sup>39</sup> Often this will mean that the government's framing of an issue can go unquestioned, and few Indigenous voices are directly reported.

This distance between mainstream media and First Peoples has consequences in terms of the wider public's understanding of the issues. Sensationalist coverage focusing on dysfunction, alcohol consumption, violence, welfare dependence and poverty is often dominant and entrenches racist stereotypes without providing an understanding of the context.<sup>40</sup> This creates an environment in which extreme and paternalist policies can be imposed with little backlash from voters. Researchers Kerry McCallum and Holly Reid have observed the particular influence of *The Australian* newspaper. As one of the few mainstream media outlets choosing to focus on Indigenous issues, the newspaper uses a 'campaigning' approach, framing stories about Indigenous communities in ways that emphasise individual responsibility, moral failure and crisis, thereby endorsing government action such as the Intervention. The newspaper also privileges the voices of a small number of conservative Indigenous leaders.

First Peoples are increasingly using special interest media and social media to expand the range of voices in public debate. Indigenous newspapers, such as the *National Indigenous Times* and the *Koori Mail*, community radio stations and the government-funded National Indigenous TV (NITV) are presenting First Nations perspectives and voices and covering stories not receiving attention elsewhere. The @IndigenousX rotating Twitter account and blog also makes a significant contribution to social and political debates, creating awareness of Indigenous knowledge and perspectives and providing an independent communication channel for a diverse range of views. First Nations journalists are also increasingly taking up positions in mainstream newsrooms and studios, articulating viewpoints that rarely receive public attention.<sup>41</sup>

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37 Langton 2008.

38 Waller 2013.

39 Waller 2013.

40 McCallum and Reid 2012.

41 Moran 2019.

## One movement or many?

Demands from First Peoples for change have taken many different shapes throughout Australia's political history. The 1970s saw the birth of a strong pan-Aboriginal movement,<sup>42</sup> inspired by the civil rights and Black Power movements in the USA. First Peoples collaborated as a nationwide collective to campaign for land rights, self-determination, treaty and sovereignty. This movement instilled a strong Aboriginal identity in many First Peoples. Following the Howard government's dismantling of ATSIC and rejection of self-determination in favour of 'practical reconciliation', there has been a strong emphasis on engaging with Aboriginal and Torres Strait Islander individuals through increasingly neoliberal policies. At the same time, in opposition to the one-size-fits-all approach of government and in a resurgence of First Nations identities and political culture, the emphasis has shifted from the pan-Aboriginal movement of the 1970s back to a focus on localised Nation-based identities, recognising the sovereignty of each Nation over their own Country.

First Nations sovereignty remains the great unanswered question of Australia's colonisation.<sup>43</sup> First Peoples claim sovereignty as distinct political communities, while also pursuing their rights as citizens of Australia. This can be a source of conflict and confusion in Indigenous politics.<sup>44</sup> First Nations have continuing sovereignty over their Country, which exists alongside and arguably in contestation with the sovereignty of the Crown. The High Court of Australia has refused to consider First Nations as sovereign;<sup>45</sup> to do so would be to challenge the sovereignty from which the High Court receives its authority.

Sovereignty is often understood in international politics as the power to exercise supreme and unrivalled authority within a given territory. As Falk and Martin explain, most First Nations' demands for recognition of sovereignty do not take this form. Rather, they rely on a notion of 'internal sovereignty', which is shared, recognised and negotiated within a geographic area.<sup>46</sup> This is concerned with creating the space for First Nations communities to protect their culture, law and traditions and to exercise autonomy with respect to matters that are important to them, such as economic development, land resource management, protection of cultural heritage and education.<sup>47</sup> Internal sovereignty does not seek to displace non-Indigenous people but does demand recognition of the identity and authority of First Nations to make decisions for their own people. First Nations hold sovereignty not as Aboriginal and Torres Strait Islander individuals, nor as a single pan-Aboriginal movement, but as hundreds of distinct polities across the continent.

42 Burgmann 2003, 44–84.

43 Reynolds 2006.

44 Maddison 2009, 44–5.

45 *Coe v Commonwealth* [1979] HCA 68; *Coe v Commonwealth (No 2)* [1993] HCA 42; *Mabo* [1992] HCA 23.

46 Falk and Martin 2007.

47 Behrendt 2003.

For this sovereignty to be exercised, it needs to be recognised at the local and regional level, acknowledging the authority of the respective Nations.

The return to Nation-based identities has also seen a reinvigoration of the treaty movement. Some of Australia's state governments have recognised this reality and begun negotiating with First Nations on a government-to-government basis.

While there is a clear need to redefine the relationship between First Nations and government, the path forward is unclear. There have been calls for self-determination and treaty for at least 50 years. First Nations and individuals have their own articulations of what sovereignty looks like, what constitutes real 'self-determination' and the contents and parties to any treaty or treaties.<sup>48</sup> The following case examples examine two prominent models: state-based treaty-making and a federal constitutionally enshrined 'Voice'. Both models are valuable examples of how the settler-colonial state can renegotiate its relationship with First Nations within the framework of a liberal federalist representative democracy.

*Case example: Victorian treaty process*

The Victorian Labor government led by Premier Daniel Andrews committed to treaty negotiations in February 2016 and has engaged in a process of consultations with First Peoples in Victoria through Self-Determination Forums, Aboriginal Victoria Forums, a Community Assembly and the establishment of the Victorian Treaty Advancement Commission. Jill Gallagher AO, a Gunditjmara woman, was appointed as Treaty Advancement Commissioner. Her work involves advancing the treaty process and establishing an Aboriginal representative body. In February 2019, the representative body was named the First Peoples' Assembly of Victoria. The role of the assembly is to establish the negotiation framework for treaty, including 'what is on and off the negotiating table, and who can negotiate'.<sup>49</sup>

The First Peoples' Assembly will be made up of 28 Traditional Owners. Eleven seats are reserved for the 11 recognised Traditional Owner groups. The other 17 will be democratically elected by all Victorian First Peoples over the age of 16.<sup>50</sup>

The process is the first of its kind in Australia and has garnered a great deal of attention inside and outside Victoria. Concerns have been expressed about the representation of First Nations' interests in the process, whether treaty negotiations would survive a change of government and the risk of Commonwealth intervention. Specifically, the process has been critiqued by First Peoples for not being a nation-based treaty process, with the suggestion that peak bodies currently recognised by the government are afforded greater attention than nations themselves. Also, as the process exists through government policy and legislation alone, it can easily be

48 For an example of an early discussion of First Nations sovereignty and a draft treaty, see Gilbert 1988.

49 Victorian Treaty Advancement Commission 2018a.

50 Victorian Treaty Advancement Commission 2018b.

altered or abolished by a successive state government or a Commonwealth government exercising the races power under the Australian Constitution.<sup>51</sup> However, with the Andrews government securing a second term and the assembly formed in mid-2019, the Victorian process is gaining momentum.

The Victorian treaty process began at the height of the constitutional recognition movement, which has dominated Indigenous politics at the national level for a decade. Constitutional recognition has been critiqued as a purely symbolic reform, palatable to the general population but distracting from the real issues and concerns of First Peoples.<sup>52</sup> The revitalisation of the treaty movement and the *Uluru statement from the heart* are both emblematic of the true desires of First Peoples: recognition of their sovereignty as the First Nations of Australia and substantive law reform that empowers First Peoples to self-determine their future.

*Case example: constitutional recognition and the Uluru statement from the heart*

The *Uluru statement from the heart* holds a unique position in Indigenous politics. Its origins are in the constitutional recognition movement. Constitutional recognition of Australia's First Peoples initially came to mainstream attention in 2007, when Prime Minister John Howard committed his government to symbolic recognition. Prime Minister Julia Gillard created an expert panel that conducted over 250 consultations around the nation and delivered its final report in 2012.<sup>53</sup> The movement for constitutional change was pushed by Recognise, a government and corporate-sponsored campaign run by Reconciliation Australia. The expert panel was followed by a Referendum Council, which had bipartisan support but came as a direct response to widespread calls for greater First Peoples involvement in the process.

The Referendum Council held 12 First Nations consultations during 2016–17, inspired by the original constitutional conventions of the late 19th century. These consultations were unique, as they were Indigenous-designed and led. During the Regional Dialogue process, 1,200 First Nations delegates were consulted, making it 'the most proportionately significant consultation process that has ever been undertaken with First Peoples'.<sup>54</sup>

Each Regional Dialogue selected representatives to attend the First Nations National Constitutional Convention at Uluru in May 2017. At the Uluru convention, representatives rejected outright the idea of symbolic recognition, which was the major concern of the Recognise campaign. First Peoples instead opted for substantive reforms to the Australian legal system in the form of a staged process:

51 Section 51(xxvi) of the Australian Constitution (the races power) was amended following the 1967 referendum to provide the Commonwealth with the ability to create legislation specific to First Peoples.

52 O'Neil 2014.

53 Expert Panel on Constitutional Recognition of Indigenous Australians 2012.

54 Referendum Council 2017, 10.



Figure 1 Denise Bowden, CEO of the Yothu Yindi Foundation, signing the *Uluru statement from the heart*. Source: Australian Human Rights Commission 2017.

- A First Nations Voice to parliament, enshrined in the Australian Constitution
- A truth-telling commission, designed around local processes of examining the untold and suppressed histories of settler–First Nations relations
- A Makarrata Commission, using the Yolŋu word for an agreement between parties after a struggle.

These claims were outlined in the *Uluru statement from the heart*, a document addressed to the Australian people. This has been summarised as: voice, treaty, truth.<sup>55</sup>

The Referendum Council's final report summarised its findings and supported the call for a First Nations Voice to parliament.<sup>56</sup> Both the *Uluru statement from the heart* and the final report received hostile responses from the Coalition government under Prime Minister Malcolm Turnbull. Parliamentarians attempted to reinvigorate the issue of symbolic recognition in the Australian Constitution, holding a Senate inquiry into constitutional recognition that reported in 2018.

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<sup>55</sup> Appleby and Davis 2018.

<sup>56</sup> Referendum Council 2017.



First Nations leaders and activists have been working to gain bipartisan support for a referendum on a First Nations Voice to parliament, after gaining a commitment from the Labor Party in late 2018. The purpose of the First Nations Voice is to provide a constitutionally enshrined voice for First Peoples within the Australian political system, to combat the decades of policy failures and lack of substantive consultation with First Peoples on Indigenous issues.

## Conclusions

This chapter focused on the complex nature of Indigenous politics, and the diversity of First Nations across the Australian continent. Historically, governments have failed to take into account the political culture and leadership of First Peoples, preferring policies that are one-size-fits-all and often based on a poor understanding of local priorities. This has led to decades of policy failures, allowing for the continuation of socio-economic disadvantage and denying First Nations' culture, law, knowledge, experiences and aspirations.

First Peoples have a long history of political activism and resistance, pre-dating the formal recognition of political equality and the right to vote in the 1960s. Adapting to changing circumstances and the restrictions imposed by governments, First Peoples have maintained a number of consistent demands over a long period: land rights, self-determination, treaty and recognition of First Nations sovereignty arising from their continuing obligations and connection to Country. The struggle against institutional racism and social exclusion has also been an enduring theme. Activism has led to significant achievements in terms of social and political change, but First Peoples are forced to work within racialised institutional structures.

Indigenous politics has the potential to change for the better and to move away from the history of failed policy making and denial of First Nations as self-determining political actors. The *Uluru statement from the heart* presents an important opportunity for substantive reform at the national, state and territory level, and the move towards treaty negotiations in certain jurisdictions shows another promising path forward. It is clear that First Peoples in Australia are determined to engage as equals in the political process and work with all Australian citizens to develop a new, more inclusive political culture, reflecting the contemporary realities of First Peoples, settlers and migrants sharing the Australian story. In the words of the *Uluru statement from the heart*, all Australians are invited to 'walk with us in a movement of the Australian people for a better future'. It is now up to governments to find appropriate ways to respond.

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# Multicultural Australia

Juliet Pietsch

## Key terms/names

assimilationism, ethnicity, integration, multiculturalism, non-English-speaking backgrounds (NESB), Office of Multicultural Affairs (OMA), public opinion, race

The rise and fall of multiculturalism and public support for multiculturalism in Australia has historically been influenced by social issues, such as public concerns about globalisation, national identity, immigration, social cohesion and population growth. In contrast to other settler countries, multiculturalism was originally developed to dismantle the White Australia policy and provide the legislative and policy foundations for supporting migrants from non-English-speaking backgrounds (NESB). In Australia, multiculturalism has focused primarily on the needs of migrants and their right to express their cultural identities. Attempts to include Indigenous Australians in multicultural policy have been met with caution due to the concern of conflating issues regarding Indigenous Australians (especially with regards to land rights, constitutional recognition and reconciliation) with distinctly migrant experiences.<sup>1</sup>

Multiculturalism is underpinned by a vast body of philosophical literature on modern liberalism and cultural diversity that examines the concept of a 'politics

Juliet Pietsch (2019). Multicultural Australia. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Parliament of Australia 2011.

of difference.<sup>2</sup> Kymlicka, for instance, explores the importance of collective rights to self-determination. These rights can be held by individuals or groups, such as minority nationals or Indigenous peoples.<sup>3</sup> Kymlicka argues that cultural group rights are needed, on the one hand, to protect a cultural community from forced segregation and, on the other, to provide enough flexibility to protect other communities from forced integration (i.e. Indigenous peoples).<sup>4</sup>

Countries have approached multiculturalism differently due to their unique historical, legal and cultural circumstances. For instance, in Canada multiculturalism was introduced to resolve tensions between French- and English-speaking Canadians. There was a much stronger emphasis on the institutionalisation of multiculturalism in Canada than in Australia, which was strengthened in 1982 with the inclusion of protections for Canada's multicultural heritage in the Charter of Rights and Freedoms. This was followed by the *Canadian Multiculturalism Act 1988* which aimed to address the under-representation of minority groups in parliament. In contrast, Australia has never adopted a legal framework for multiculturalism. Instead, it has focused on improving social and economic outcomes for migrants from NESB. Before the introduction of multiculturalism in Australia, migrants from NESB struggled with low levels of English literacy and were often the victims of racism and discrimination due to the enduring impact of the White Australia policy.

This chapter focuses on the development of multiculturalism in Australia, as distinct from other countries around the world. The first section of the chapter traces the development of multicultural Australia in three distinct phases: 1) integration of non-British postwar European migrants; 2) social justice and equality; and 3) citizenship and civics. The second section of the chapter examines public attitudes towards multiculturalism over time, drawing on findings from the Australian Election Studies, and reflects on the meaning of multicultural Australia in the 21st century.

#### The development of multicultural Australia

After the Great Depression and the Second World War, Australia moved towards an ethnically plural program, concomitant with a significant decline in arrivals in Australia of migrants with British origins. By the 1940s, it was clear that immigration from Britain was not going to be sufficient to achieve economic growth in Australia. Therefore, Australia's immigration resources were diverted from Britain to the refugee issues in western and southern Europe. To assist with

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2 Faulks 1998; Favell 1998; Isin 2008; Kymlicka 1995; Kymlicka and Banting 2006; Levey and Modood 2009.

3 Kymlicka 1995; Kymlicka 1989.

4 Kymlicka 1995.

overpopulation and fears of political instability in Europe, Australia was persuaded by the International Refugee Organisation to accept large numbers of people displaced by the war. After the Second World War, the decision to initiate a program of mass migration was announced in the Commonwealth parliament by the first minister for immigration, Arthur Calwell.

Australia introduced the assisted European migration program, which began in 1947. The Australian government was initially hesitant to admit Greek and Italian refugees because they were seen as culturally different and politically suspect due to the influence of communism in their home countries.<sup>5</sup> However, due to the demand for labour, the program eventually accepted 170,000 refugees from countries including Malta (1948), Italy and the Netherlands (1951), Germany, Austria and Greece (1952), Spain (1958), Turkey (1967) and former Yugoslavia (1970).<sup>6</sup> European immigration peaked in the 1960s, with a total of 875,000 assisted passages.<sup>7</sup> Overall, the European immigration program helped to increase the size of the workforce and contributed to postwar economic expansion.<sup>8</sup> Postwar migrants formed the backbone of the manufacturing sector and the Snowy Mountains Hydro-Electric Scheme. In fact, it could be argued that the Snowy Mountains Scheme, which attracted over 100,000 migrants from Europe under assisted migration schemes, was the beginning of multicultural Australia.

In this period, the ideology behind the European immigration program was 'assimilationism'. Non-British migrants were encouraged to naturalise and assimilate.<sup>9</sup> In 1945, Arthur Calwell, the minister for immigration in 1945–49, proposed that 'Australian nationality' be equated with Australian citizenship to facilitate immigration and deportation, the issue of passports and the representation of Australians abroad.<sup>10</sup> Calwell proposed that to qualify as an Australian national one should be:

- a person born in Australia who has not acquired another nationality
- a British subject not born in Australia who was not a prohibited immigrant at his time of entry and has resided in Australia for five years
- a person naturalised in Australia who has residence of five years
- the wife of an Australian national who is herself a British subject resident in Australia, or
- a child born outside Australia whose father, at the time of birth, was an Australian national.<sup>11</sup>

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5 Vasta 2005.

6 Jupp 1992.

7 Jupp 2002, 23.

8 Jakubowicz 1989.

9 Jakubowicz 1989; Jordens 1997.

10 Dutton 1999.

11 Dutton 1999, 14.

Following the 1947 Commonwealth Conference on Nationality and Citizenship, the Commonwealth nations agreed on a system of nationality and citizenship. In 1949, Australian citizenship came into being after the enactment of the *Nationality and Citizenship Act 1948* (Cth). Citizenship was seen as a crucial component of nation building.<sup>12</sup> However, Australian citizenship was still associated with being a British subject.

The conception of citizenship based on a sense of national belonging led to different levels of discrimination against non-British migrants. For example, non-British subjects could only obtain citizenship after five years, whereas British subjects only had to wait one year to obtain citizenship.<sup>13</sup> In terms of eligibility for citizenship, there was also discrimination between Asian migrants and European migrants. For instance, by 1958, Asian migrants were required to live in Australia for 15 years or more before becoming eligible for naturalisation under the *Migration Act 1958* (Cth). By contrast, European migrants only had to wait five years for naturalisation.<sup>14</sup>

At the 1952 citizenship convention, the minister for immigration, Harold Holt, referred to the importance of restrictions in Australia's immigration policy. He stated that restrictions were not based on racial superiority, but rather on differences between cultures that make successful assimilation difficult.<sup>15</sup> Although Holt was mainly referring to migrants from Asian backgrounds, this discrimination was also directed towards southern European migrants, who were often provided little or no support for their resettlement. For example, in 1952, the Department of Immigration's social workers reported severe distress among non-British migrants, where shelters for the homeless were unable to cope and thousands were left sleeping in parks.<sup>16</sup>

During the 1960s, Australia entered a recession with large-scale unemployment among the thousands of migrants recently arrived in the country.<sup>17</sup> Welfare departments provided low-level services but were not properly equipped to cope with the large numbers of people from NESB. For example, during this time, professional interpreters were minimal within government services.<sup>18</sup> The problems associated with settlement for all migrants from NESB and the need for them to assimilate and conform to a culturally different environment created a build-up of pressure on the government to change its migrant settlement and welfare policy. By the end of the 1960s, it was evident that no single government department could meet all the settlement needs of migrants. The government

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12 Jordens 1995.

13 Zappala and Castles 2000.

14 Brawley 1995.

15 Jordens 1997, 149.

16 Jordens 1997, 13.

17 Jakubowicz 1989.

18 Jakubowicz 1989; Jupp 1966.

suggested that migrant settlement services should be dispersed into other government departments and agencies.<sup>19</sup>

During the late 1960s, many European migrants experienced poor working conditions and poor health associated with unhealthy working environments and unemployment.<sup>20</sup> James Jupp's *Arrivals and departures* (1966) provided significant insight into anti-assimilationist complaints and migrant welfare problems. Jupp criticised the lack of government housing, the lack of pensions for elderly migrants, the high number of migrants in low-skilled employment, the lack of recognition of overseas qualifications, poor protection of migrant workers by Australian unions and the lack of English-language courses and available interpreters.<sup>21</sup>

Other researchers also highlighted the disadvantaged situation of migrants in Australia and contributed to the public debate on the problems of assimilation.<sup>22</sup> For example, Jerzy Zubrzycki argued for a commitment to cultural diversity through promoting the teaching of foreign languages.<sup>23</sup> Jean Martin also highlighted the importance of ethnic pluralism at numerous conferences. Martin argued that migrant groups existed in varying degrees of isolation because there were no mechanisms to help them settle into Australian life. Martin, an advocate of ethnic pluralism, blamed the assimilation policy and the 'de-valuation' and 'non-recognition' of migrant institutions and cultures for the problems that migrants had to endure.<sup>24</sup> Between 1969 and 1971, integrationist migrant welfare programs were initiated, which aided migrant English-language competence, social mobility, social integration and the improvement of migrant welfare services.<sup>25</sup>

In 1973, the Labor government, under the leadership of Prime Minister Gough Whitlam, promoted a reconceptualisation of Australian national identity in terms of multiculturalism. The term 'multiculturalism' was borrowed from Canada but applied differently in the Australian context. The Labor minister for immigration, Al Grassby, identified that nearly a million migrants had not taken up Australian citizenship because of their experiences of racism and discrimination. Grassby suggested encouraging the retention of social and cultural differences among non-British Australians. In response, the *Australian Citizenship Bill 1973* (Cth) was introduced in 1973, reflecting a new national identity that was anti-racist and challenged assimilationist values.<sup>26</sup> The focus of citizenship shifted from culture and British inheritance to the principle of territoriality – that is, residence on the territory of the Australian state.<sup>27</sup>

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19 Jordens 1997.

20 Castles et al. 1988.

21 Jupp 1966.

22 Price 1971; Price 1966; Zubrzycki 1995; Zubrzycki 1968.

23 Zubrzycki 1995; Zubrzycki 1968.

24 Lopez 2000.

25 Lopez 2000, 129.

26 Davidson 1997.

27 Zappala and Castles 2000, 40.

In 1974, the government also introduced a Bill to combat racial discrimination and ratify the United Nations Convention on the Elimination of All Forms of Racial Discrimination, to which Australia had been a signatory since 1966 but had not ratified. The Bill was passed by both houses of the Commonwealth parliament on 4 June 1975 and became the *Racial Discrimination Act 1975* (Cth). The legislation made it unlawful to discriminate against a person because of their nationality, race, colour or ethnicity. The passing of the *Racial Discrimination Act 1975* formally ended the White Australia policy. However, that policy had such a significant impact on the public imagination and sense of national community and identity that its effects lingered for decades afterwards.

The Whitlam government attempted to fill the void left by the old nationalism, and redefined the concept of Australia's 'national community'.<sup>28</sup> The new national identity was to be more inclusive, embracing liberal humanist values, progressive ideals and overall social reform.<sup>29</sup> The success of the Whitlam government at the 1974 election represented popular endorsement of the changes made by Gough Whitlam. For example, Murray Goot found that 'the polls of 1974 and 1975 were the first of their kind to produce clear majorities in favour of the current rate of immigration'.<sup>30</sup> However, problems with the Whitlam reforms began to emerge when the Whitlam government was placed under pressure with the build-up of refugees in camps in South-East Asia as a result of the war in Vietnam, which displaced up to 800,000 people.

With increasing numbers of Asian migrants in the late 1970s, the government was under international pressure to move ahead of the general population of Australia in endorsing a new ethnically inclusive national identity. *Migrant services and programs: the report of the review of post-arrival programs and services to migrants*, known as the Galbally report, was introduced in 1978 as a key driver in formulating government policies affecting migrants. At the heart of the report was the need to provide encouragement and financial assistance for migrants so that they could maintain their cultural identity.<sup>31</sup> The Galbally report recommended:

- improvements in the Adult Migrant Education Program, which was initiated in 1947 to teach survival English to refugees
- free telephone interpreter services for migrants from NESB and emergency services
- the establishment of Migrant Resource Centres
- the introduction of a Special Broadcasting Service (SBS).<sup>32</sup>

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28 Curran 2002, 470.

29 Lopez 2000, 222.

30 Goot 1988, 8.

31 Galbally 1978.

32 Jupp 1992.

The Fraser government strongly supported the recommendations of the report, initiating expanded migrant settlement services and seeking to promote cultural pluralism as a source of strength to Australia's national identity rather than a threat. The Galbally report suggested shifting migrant services from the general area of social welfare to 'ethnic specific' services.<sup>33</sup> For example, Galbally proposed that many on-arrival services be provided through voluntary organisations, rather than through public agencies.<sup>34</sup> He also recommended withdrawing government funding from the Good Neighbour Councils, which were originally set up in 1949 to cater to the needs of non-British European refugees.<sup>35</sup> Overall, between 1976 and 1983, the Fraser government reduced spending by shifting funding from government agencies to voluntary organisations within the community. Therefore, cultural diversity was encouraged, but only if political and economic structures were left intact.<sup>36</sup>

When the Labor government was elected in 1983, it set about reforming some of the Liberal policies of multiculturalism. The *Review of Migrant and Multicultural Programs and Services* (ROMAMPAS) was released in 1986. It proposed a strategy of providing basic resources and support for cultural expression, stressing the importance of equality. The report suggested four principles for developing government policies:

- All members of the Australian community should have an equitable opportunity to participate in the economic, social, cultural and political life of the nation.
- All members of the Australian community should have equitable access to an equitable share of the resources that governments manage on behalf of the community.
- All members of the Australian community should have the opportunity to participate in and influence the design and operation of government policies, programs and services.
- All members of the Australian community should have the right, within the law, to enjoy their own culture, to practise their own religion and to use their own language, and should respect the right of others to their own culture, religion and language.

The focus of the report was ensuring equal opportunity and outcomes for all Australians. The report also recommended the establishment of an Office of Multicultural Affairs (OMA), which was set up in 1987 and assumed responsibility for the Commonwealth Access and Equity Strategy.<sup>37</sup> As part of this responsibility, the OMA prepared the *National Agenda for Multicultural Australia*, which focused

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33 Kalantzis 2000, 104.

34 Jupp 1992.

35 Jupp 1992.

36 Jupp 1988, 927.

37 Jupp 1992.



on the issues of access to public services and equity in the allocation of public resources. The OMA identified three new directions for multicultural policy:

- cultural maintenance and respect for cultural difference
- promotion of social justice
- recognition of the economic significance of an ethnically and culturally diverse community.<sup>38</sup>

The principles of multiculturalism were broadly accepted by the Hawke and Keating Labor governments throughout the 1980s and early 1990s.<sup>39</sup> However, with the rise in Asian immigration, there were rumblings that the government was moving too far ahead of public opinion. For example, Geoffrey Blainey argued that the immigration policy in the early 1980s was insensitive to the views of the majority of Australians. In *All for Australia*, Blainey criticised Australia's immigration policy and the slogan 'Australia is part of Asia'. He argued that Australia was importing unemployment but not announcing what it was doing.<sup>40</sup> Furthermore, he criticised the nature of multiculturalism as an identity for Australia:

Multiculturalism is an appropriate policy for those residents who hold two sets of national loyalties and two passports. For the millions of Australians who have one loyalty this policy is a national insult.<sup>41</sup>

Blainey's criticisms were later echoed in the mid-1990s. For example, in 1996, leader of the One Nation Party (ONP), Pauline Hanson, expressed the following concerns about Asian immigration and multiculturalism in her maiden speech in federal parliament:

Immigration and multiculturalism are issues that this government is trying to address, but for far too long ordinary Australians have been kept out of any debate by the major parties. I and most Australians want our immigration policy radically reviewed and that of multiculturalism abolished. I believe we are in danger of being swamped by Asians.<sup>42</sup>

The recognition of ethnic difference in multiculturalism was interpreted by the ONP as a form of disrespect to Anglo-Australian identity.<sup>43</sup> In fact, it is possible that ONP populism caused the most damage to multiculturalism. In 1996, the newly elected Howard Liberal–National (Coalition) government made cuts in the

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38 Allbrook, Cattalini and Associates 1989, 20.

39 Jones 2003, 116.

40 Blainey 1984.

41 Blainey 1988, 22.

42 Hanson 2016.

43 Leach 2000, 45.

areas of immigration and multiculturalism. The term 'multiculturalism' as a defining component of national identity was also losing support.

In the late 1990s, questions were raised about whether an ethnically diverse nation can also be a unified nation. According to Ruth Fincher, over the years there have been two opinion groups. First, there are those who support the idea that 'an ethnically diverse population, its growth fuelled by sustained and non-discriminatory immigration, benefits the "nation" by improving its economic resources, its social breadth, its international linkages, and its citizenship'.<sup>44</sup> Second, there are those who suggest that ethnic diversity weakens the character of national identity. According to Fincher, 'theirs is a view of essential Australianness that sees a national character as having been formed amongst Anglo-Australians from the time of English settlement'.<sup>45</sup> Since the 9/11 terrorist attacks in the USA, the latter view has become more prominent in the Australian media because of fears of Australia becoming a fragmented society.

The rise of transnationalism tends to encourage states to reassert their authority in shaping national identity and national citizenship.<sup>46</sup> The frequency of terrorist attacks has also led to governments reaffirming national identity and establishing new citizenship obligations. As a result, Eleonore Kofman argues that more than ever 'the state is asserting its role as protector of national identity and social cohesion'.<sup>47</sup> For instance, the world's leading democracies began to apply more pressure on migrants to integrate, assimilate and conform to civic values.<sup>48</sup> One of the casualties of the new focus on civic integration was multiculturalism. The new assertiveness of liberal states to impose liberal values, such as democracy and gender equality, coincided with a retreat from multiculturalism in theory and policy.<sup>49</sup>

The shift to civic integration was partly due to the pressure to maintain a secure environment and also to obtain public consent for large-scale influxes of skilled migrants.<sup>50</sup> In Australia, in 2006, there were suggestions in the media that a national consensus supporting high immigration would be at risk unless the Australian public tackled the key issues of common values, social cohesion and multiculturalism.<sup>51</sup> Furthermore, on the fifth anniversary of the 9/11 terrorist attacks, former Prime Minister John Howard and opposition leader Kim Beazley led national debates on immigration, values and terror. Howard said, 'people in Australia are in no doubt that extreme Islam is responsible for terrorism' and Kim Beazley called for 'all new Australians to sign up to Australian values when they

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44 Fincher 2001, 27.

45 Fincher 2001, 28.

46 Holton 1998; Kofman 2005.

47 Kofman 2005, 454–5.

48 Kofman 2005.

49 Joppke 2004.

50 Joppke 2004.

51 Albrechtsen 2005.

applied for their visas.<sup>52</sup> The debates in the Australian media escalated quickly following the London terrorist attacks in 2005 and the fear of home-grown terrorism. Zubrzycki, one of the original proponents of multicultural policy in Australia, stated in *The Weekend Australian* that he never imagined that his preference for a culturally diverse policy could welcome hard-line isolationist groups antagonistic to Western values.<sup>53</sup>

The combined issues of immigration, national values and terrorism have raised questions as to how the modern nation state should fulfil its role as protector of national identity and social cohesion.<sup>54</sup> The Australian government response has been to support high levels of migration but at the same time demonstrate to the public that they are tightly monitoring the management of migration and diversity.<sup>55</sup> In terms of managing migration, Australia has selected migrants based on their utility to the economy and on the skills shortage. In terms of managing diversity, migrants with transnational links have been encouraged to integrate and embrace Australian civic values.<sup>56</sup> Political leaders have led debates on the issues of Australian national values and citizenship as a way of rethinking questions of social cohesion and national identity.

At the turn of the century, with nearly 25 per cent of Australians born outside the country, with transnational connections, the Coalition government specifically focused on the notion of citizenship as a basis for a collective national identity. The government proposed more difficult and protracted citizenship tests. In October 2006, Liberal MP Petro Georgiou criticised the government's discussion paper 'Australian citizenship: much more than just a ceremony' in a speech delivered to the Murray Hill Society at the University of Adelaide. Georgiou argued that difficult and protracted citizenship tests were not necessary to promote social cohesion and integration. In particular, Georgiou criticised the proposed English tests, arguing that the take-up of citizenship is lowest among English speakers. For example, migrants from the UK, New Zealand and the USA have traditionally had lower take-up rates of citizenship than migrants from non-English-speaking countries.

With no real break in terrorist incidents in Western countries, and subsequent concerns about racial and ethnic tensions, the civic approach to multiculturalism and social cohesion was largely supported by successive Labor and Liberal governments in the first two decades of the 21st century. Fears about terrorism on home soil in Australia were realised in Sydney in 2014, when Australians witnessed the Lindt cafe siege, which took place in front of a television studio. A lone gunman – Man Haron Monis – with a Muslim background entered the cafe and held hostage

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52 Megalogenis 2006, 1.

53 Megalogenis 2006.

54 Kofman 2005.

55 Ang and Stratton 2001.

56 Prime Minister John Howard on talkback radio received public criticism for his suggestions that a small section of the Islamic population was unwilling to integrate. See also Kerbaj 2006; letters to the editor in *The Weekend Australian*, 2–3 September 2006.

up to ten customers and eight employees. After a 16-hour stand-off hostages Tori Johnson and Katrina Dawson were killed, along with the gunman, when police raided the cafe. Since the Lindt cafe siege, there have been several other attacks by individuals with Muslim backgrounds, including in Sydney in 2015, when an Iraqi youth attacked with a knife and shot an accountant who worked for the New South Wales Police in Parramatta, and in Melbourne in 2018, when a Somali migrant stabbed three pedestrians and a police officer, who later died in hospital. These attacks further damaged government support for multiculturalism. They also harmed Muslim communities that in most cases had fled from wars, terrorism and religious violence in their countries of origin, only to be confronted with the reality of politically motivated violence once again.

#### Public support for multiculturalism

So far, this chapter has looked at the development of multicultural Australia from the perspective of government in response to changing immigration patterns, public fears about national identity, globalisation and national security. However, throughout the changes in government policy, the broader Australian public has maintained consistent views towards multiculturalism. One way to measure public attitudes towards multiculturalism is to ask people whether they feel equal opportunities for migrants have gone too far. As can be seen in the previous section, the original goals of multicultural Australia were to provide equal opportunities for migrants through a range of programs, such as providing English as a second language support for migrants from NESB, as well as a range of migrant welfare, cultural and translation services.

Figure 1 shows the results from the 1990–2016 Australian Election Studies. The Australian Election Study surveys a representative sample of Australians each election year, asking questions on a range of social and political issues. The advantage of the Australian Election Studies is the way in which the surveys track political attitudes and behaviours over time, asking the same questions in each election year. The results in Figure 1 reveal that up to 44 per cent of respondents were not overly supportive of multiculturalism in the early 1990s. Interestingly, the percentage that were concerned about multiculturalism decreased in the years leading up to the 9/11 terrorist attacks and the follow-up concerns about migration, particularly arrivals of asylum-seekers with Muslim backgrounds. Asylum-seeker arrivals became a source of political controversy during the 2001 election campaign. In 2001, the Howard government, in what became known as the ‘*Tampa Affair*’, claimed that asylum seekers had thrown their children overboard to secure long-term protection in Australia. An Australian Senate Select Committee later found that the children of asylum seekers were not placed at risk and that the government had tried to mislead voters.

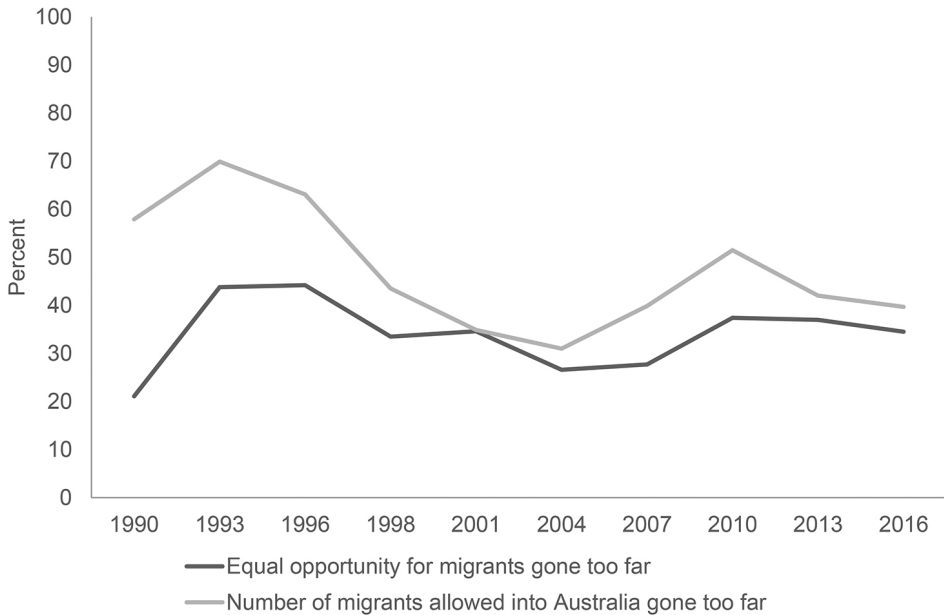


Figure 1 Attitudes towards multiculturalism and immigration (%). Source: 1990–2016 Australian Election Studies, <https://australianelectionstudy.org/>.

The percentage of survey participants that were concerned about multiculturalism increased throughout the first decade of the 21st century from 27 per cent in 2004 to 35 per cent in 2016. This may, in part, be related to increasing media attention on terrorist attacks in other countries. However, the results in Figure 1 also show that attitudes towards levels of migration run parallel to attitudes towards multiculturalism, with an increasing percentage of Australians concerned about the number of migrants allowed into Australia. In 2016, more than 40 per cent of the Australian population felt that the number of migrants allowed into Australia had gone too far, increasing from a low of 27 per cent in 2004.

Australian attitudes towards multiculturalism and immigration are also consistently related to several important background factors, such as age, education and political identification. Table 1 shows that, in more recent election years, younger Australians were less likely to be concerned about equal opportunities for migrants, compared to older Australians. For example, in 2016, only 14 per cent of respondents in the '18–24' age bracket expressed concern compared with over 40 per cent of respondents in the '35–44' and '55 and over' age brackets. In some elections, younger respondents were more likely to express concern about multiculturalism, compared to older respondents, such as in 1990, 1996, 1998,

**Table 1 ‘Equal opportunities for migrants gone too far’, by background (%)**

|                            | 1990 | 1993 | 1996 | 1998 | 2001 | 2004 | 2007 | 2010 | 2013 | 2016 |
|----------------------------|------|------|------|------|------|------|------|------|------|------|
| <b>Age</b>                 |      |      |      |      |      |      |      |      |      |      |
| 18–24                      | 34   | 46   | 52   | 35   | 40   | 18   | 19   | 42   | 31   | 14   |
| 25–34                      | 28   | 46   | 46   | 34   | 36   | 26   | 24   | 30   | 34   | 30   |
| 35–44                      | 21   | 43   | 40   | 33   | 34   | 25   | 28   | 42   | 35   | 40   |
| 45–54                      | 15   | 40   | 43   | 36   | 34   | 27   | 32   | 42   | 40   | 33   |
| 55–64                      | 15   | 41   | 42   | 29   | 31   | 27   | 28   | 34   | 41   | 40   |
| 65+                        | 18   | 46   | 46   | 31   | 33   | 29   | 27   | 35   | 39   | 41   |
| <b>Education</b>           |      |      |      |      |      |      |      |      |      |      |
| No qualification           | 26   | 49   | 50   | 36   | 42   | 28   | 30   | 41   | 43   | 39   |
| Non-tertiary qualification | 19   | 46   | 46   | 37   | 37   | 33   | 34   | 44   | 46   | 46   |
| Tertiary qualification     | 9    | 24   | 28   | 19   | 16   | 15   | 13   | 23   | 21   | 20   |
| <b>Vote</b>                |      |      |      |      |      |      |      |      |      |      |
| Liberal                    | 20   | 47   | 50   | 31   | 37   | 33   | 32   | 45   | 45   | 40   |
| Labor                      | 21   | 41   | 36   | 30   | 32   | 21   | 25   | 31   | 31   | 32   |
| National                   | 30   | 50   | 59   | 41   | 39   | 31   | 43   | 65   | 47   | 47   |
| Greens                     |      |      | 39   | 39   | 17   | 9    | 15   | 25   | 12   | 9    |

Source: 1990–2016 Australian Election Studies, <https://australianelectionstudy.org/>.

The question was, ‘Do you think the following change that has been happening in Australia over the years has gone too far, not gone far enough, or is it about right?’ ‘Equal opportunities for migrants’.

2001 and 2010. This shows that younger age groups are not always supportive of multiculturalism, as is often assumed, with younger age groups considered to be more progressive than older age groups.

Other, more consistent factors that are related to views on multiculturalism are education and political identification. Those with a tertiary qualification are consistently more likely to support multiculturalism, although even among respondents with a university education there has been a steady increase in the number concerned about multiculturalism, from only 9 per cent of respondents in 1990 to 20 per cent in 2016. Nevertheless, those without a university qualification show a much higher level of concern about multiculturalism, with more than 45 per cent of respondents in 2010 and 2013 and 40 per cent in 2016 stating that equal opportunities for migrants had gone too far. The most consistent factor that is related to views about multiculturalism is how respondents vote during the election. Those who vote for Labor and the Greens at each election have been consistently more likely to support multiculturalism, compared to those who vote for the Coalition. This would be expected because since the 1990s the Labor Party has more actively promoted multiculturalism. Federal and state Labor electorates are also more likely to have significant populations of migrants from both low socio-economic and non-English-speaking backgrounds.

## Conclusions

Political leaders, by and large, acknowledge that the old form of nationalism in Australia, based on common history, language and tradition, has declining relevance. These leaders have given expression to what a new 'national community' should be. In the 1980s, Prime Minister Bob Hawke supported the view of a 'national community' in Australia as defined in terms of multiculturalism. This view was presented in the 1989 *National Agenda for a Multicultural Australia*. Whitlam, Fraser and Hawke all attempted to reconcile diversity with a common British-Australian identity. However, the use of multiculturalism as a symbol of Australian nationalism began to unravel when subsequent governments began to feel uneasy with the concept.<sup>57</sup> Since the rise of the ONP and conservative politics in the late 1990s and terrorism in the 21st century, consecutive governments have refrained from promoting multiculturalism as a unifying symbol of national identity. Instead, the policy of multiculturalism is considered useful for managing cultural diversity and social cohesion.

The findings of the Australian Election Studies discussed in this chapter show that while there are many ebbs and flows in government policies and public debates on multiculturalism and immigration, there is a fairly consistent level of public support for multiculturalism, especially among those with a tertiary qualification and Labor voters. It appears that efforts among government and media elites to undermine the enduring success of multicultural Australia have had very little success, revealing the inclusivity and egalitarianism of the Australian population.

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57 Curran 2002.

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# Pressure groups and social movements

Moira Byrne

## Key terms/names

collective action, disturbance theory, exchange theory, framing, incentives, insiders, outsiders and thresholders, political opportunity, population ecology, resource mobilisation theory, sectional interests

Groups and movements that pressure governments and political parties seeking government to change policy are vital features of democracy. Without the combined actions of people participating in groups and social movements, those who wish to hold office may not be aware of issues affecting constituents or how changes to policy may affect them.

Knowing about pressure groups and social movements is critical in considering democracy, government and policy making. This chapter discusses what pressure groups and social movements are, when they form, who joins them, how they work, and why they cease to exist. These considerations shine a light on some of the important theories about group power. The chapter also reflects on whether these groups are good for democracy and discusses the kinds of pressure groups and social movements in Australia.

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What are pressure groups and social movements?

Political scientists use a number of terms to describe pressure groups, including interest groups and lobby groups.<sup>1</sup> The term 'pressure groups' refers to organisations that pressure government to change policy, whether for their own interest or in the interest of others. A pressure group more broadly is defined as an association that seeks to represent a sector of society and make a direct or indirect claim on government to influence policy, without wanting to govern.<sup>2</sup>

Interest groups seek to represent their *own* interests in government policy without wanting to govern. Advocacy groups advocate for *others*. Some pressure groups are both interest groups and advocacy groups.<sup>3</sup> They might represent some of their own interests, but also the interests of others.

The term 'social movement' refers to shared opinions and beliefs in a population which indicate preferences for changing elements of the social structure or operation.<sup>4</sup> These coalesce into people's campaigns to change society and culture. Sociologist Sidney Tarrow observed that major societal changes such as war, recession, political instability, or large demographic or technological change often prompt 'waves of protest' which give rise to social movements.<sup>5</sup> Typically, social movements centre on a broad issue, so are also known as issue movements.

*What's the difference between pressure groups and social movements?*

Pressure groups differ from 'social movements' because they are specifically organised to influence policy. Social movements evolve more organically and are less concerned with changing government policy than with changing society more broadly. Social movements may develop as people accept changing attitudes on an issue, or because a political voice is required to address social exclusion. Movements can place pressure on politicians at a grassroots level as people in society accept a change about an issue,<sup>6</sup> but this is not their reason for being. In essence, social movements are formed solely in the community, rather than forming in relation to the state. Counter-movements is a term used to describe opinions mobilised in opposition to a social movement (e.g. the men's rights movement in reaction to feminism).<sup>7</sup>

*Collective action* is intrinsic to pressure groups and social movements because they employ group power to alter public policy.<sup>8</sup> Many activities may not be directly political, but groups and movements spend at least some of their time and resources

1 Richardson 1993, 1.

2 Halpin 2012, 179; Matthews 1980, 447; Richardson 1993, 1; Smith 1993, 2.

3 Sawyer 2007, 24–5.

4 McCarthy and Zald 1977, 1217–8.

5 Tarrow 1994.

6 Marsh 1995, 53–4.

7 McCarthy and Zald 1977, 1218.

8 Cook 2004, 138.

trying to influence public policy. This may include indirect methods through networking or participating in government consultations, or more direct methods such as electioneering or strategic professional links to government by being close to government decision makers, either geographically or politically.<sup>9</sup> Contemporary social movements tend to have many of the following characteristics:

- high levels of participation by individuals who don't necessarily see themselves as part of a formal organisation
- self-identification with the cause or issue of concern
- seeing political or ideological opponents as 'enemies' to overcome
- links with formal interest groups and 'social movement organisations' within this wider tapestry of informal participation.

In practice, however, there is considerable overlap between social movements and pressure groups. Often, what begin as social movements later spawn pressure groups. Likewise, some groups that may form as pressure groups to address a policy issue may focus their effort on broad-scale mobilisation and changing public opinion as a way of bringing about the policy change they seek. For example, the campaign for same-sex marriage in Australia began as a pressure group (stemming out of the lesbian, gay, bisexual, transgender and intersex rights movement, which sought legal and policy change). As the quest for same-sex marriage gained traction in the broader community, support for marriage equality became a social movement.

When do pressure groups and social movements form?

A number of theories explain formation. While these theories are explained separately, in practice, many factors affect formation of pressure groups and social movements.

#### *Disturbance theory*

David Truman observed the formation of pressure groups as a response to the growing complexity of society. Any disturbances arising in the community upset the balance within society. This in turn prompted pressure groups to form to oppose these threats to the status quo. Truman also noted that in almost all organised groups, an 'active minority' governed on behalf of the many.<sup>10</sup>

Similarly, Smelser noticed that successful social movements morph from 'disturbances into generalised beliefs'. Smelser argued that social movements evolve in stages, but a society needs to be structured to enable collective behaviour, like a democracy, for it to begin. Secondly, a deprivation, or perceived deprivation,

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<sup>9</sup> Davis et al. 1993, 139; Warhurst 1986a, 312.

<sup>10</sup> Truman 1951, 139–55.

must exist according to a significant number of people. Certain factors hasten participants in the movement to mobilise, such as the availability of movement media to communicate and build common concerns or grievances.<sup>11</sup>

*Population ecology and resource mobilisation theory*

The theory of organisation population ecology illuminates the challenge to balance outcomes for all interests. In the 1970s, scholars attempted to understand group formation in the context of the politics of the day, as well as those who were trying to promote ideas or change policy.<sup>12</sup> Groups form depending on the population density of other groups at the time of their formation, which ‘both legitimises and constrains’ group formation.<sup>13</sup> A group with the same motivation may arise because great numbers of people wish to join them in a particular location; another group with the same motivation may founder because it does not offer a unique perspective and there are already groups at that place. These groups frequently compete for the same resources, membership and funding.

Because pressure groups are in competition with each other, the existing density of groups in the population affects a new group’s prospect of formation.<sup>14</sup> Further, low density of groups increases the legitimacy of the organisations that exist. Yet as more organisations form, competition for resources means some groups cease to exist.<sup>15</sup>

Resource mobilisation theory emphasises the crucial question of how social movements mobilise resources.<sup>16</sup> This focuses on the way group and movement actors raise funds and other politically useful resources (such as memberships). While many movements and pressure groups have traditional support bases of resources and labour, they may also have constituents that can provide money, facilities and labour, even if they are not committed to the values underpinning specific movements. How these resources are aggregated is critical to understanding the activities of organisations, as they inform strategy and tactics, and affect the movement’s relationships with wider society.<sup>17</sup>

*Political opportunity*

Political opportunity is a third theory advanced to explain group formation, noting that group formation depends on the political environment. In this framework, favourable political conditions prompt advocacy groups to form. This can include

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11 Smelser 1963.

12 Nownes 2004.

13 Jenkins 2006, 313.

14 Nownes 2004.

15 Jenkins 2006, 313.

16 McCarthy and Zald 1977, 1212–3.

17 McCarthy and Zald 1977, 1216–7.

changes in government, which provide the impetus for groups to form whose ideas align with those elected. But it can include structural factors, like the openness of institutions to lobbying, litigation, or other forms of political practice that groups and movements have expertise in.<sup>18</sup>

Overall, non-profit organisations and advocacy groups also increase as a more diverse, inclusive and democratic polity offers the potential for them to exert influence (political pluralism).<sup>19</sup> Group formation can also be a reaction to the rise of perceived threats to the interests of the group.<sup>20</sup>

Who joins pressure groups and social movements and why?

A variety of motivations prompt individuals to participate. Political economy and public choice theory provide insights here. In this view, 'special interests' are interpreted as competing for economic favour in exchange for political power.<sup>21</sup> As decision-makers are seen as utilitarian, they weigh options of who to support based on their resources and group power. In turn, those joining pressure groups are viewed through the lens of transactions: groups provide personal incentives to potential group members, and group members provide legitimacy for the group.

While theories of public choice and economics do not explain all pressure groups, these dimensions are significant to understanding pressure groups in politics and policy in contemporary Australia – particularly those with vested interests, such as organised labour and capital. Other groups advocating on behalf of, or for, the interests of others seek justice to address structural inequalities in society or act altruistically to address inclusion and representation for a diverse population, which is often not well explained by these economic models.

#### *Incentives and exchange theory*

Clark and Wilson categorised benefits offered to group members:

- *Material benefits*: offer tangible advantage for the member, such as economic benefits (publications, or discounts on services and products) or improved working conditions. This is often associated with Robert Salisbury's exchange theory, namely, that organisers offer incentives and benefits to potential members for joining.<sup>22</sup>
- *Solidarity benefits*: are intangible, offering a sense of identity and community through education, involvement and participation. This also brings a collective

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18 Jenkins 2006; Nownes 2004.

19 Jenkins 2006, 313.

20 Gamson and Meyer 1996.

21 Snooks 1998, 203–12.

22 Salisbury 1969.

identity, marking one as belonging to a group or standing for a cause. This, in turn, can bring status, enjoyment and social capital.

- *Purposive benefits*: relate to the group's purpose, such as to change a policy, promote an idea, or pursue a particular action.<sup>23</sup> These purposive benefits are also termed 'expressive' benefits, as people join to voice their values and ideals.<sup>24</sup>

Clark and Wilson argued that one or more of these benefits must be provided to members to either entice them to join or to remain part of the organisation. A pressure group's continued existence depends upon members sharing in the group benefits, and group organisers extracting advantage from those members.<sup>25</sup>

#### *Collective action and free riders*

This leads to debates about how public-spirited pressure groups and movements are. Mancur Olson argued that collective action was primarily motivated by desire for individual benefit, but a benefit not available to a person acting alone. This 'rational choice' approach focuses on the cost-benefit calculation of members in joining groups and movements. In this model, groups form because some individuals perceive opportunities to benefit, possibly at the expense of others.<sup>26</sup> Thus, some pressure groups have been seen to profit at a higher expense, such as seeking a subsidy for a small group paid for by general taxation.

This approach also explains paradoxes in group formation: if groups produce public benefits that all can access, what is the incentive of participation for the individual? If groups become too large, some may benefit without paying the costs of the group. This problem of 'free riding' can be seen in the way some groups attempt to restrict the benefits of their collective action to their membership, such as when unions historically enforced 'no ticket no start' requirements that workplaces must employ union members.

#### *Justice and altruism*

Other scholars observe that rational choice fails to explain participation, or recognise the role of ethics, justice and morality in tempering the 'selfish' motivations of individuals and pressure groups.<sup>27</sup> The field of behavioural economics recognises that human decisions are not always based on perfect rationality, and uses insights from psychology to explore various motivations for behaviour in exchange transactions.<sup>28</sup> People judge intuitively, automatically and emotionally, in line with their experience, and emotions are important aspects of

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23 Clark and Wilson 1961, 134–5.

24 Salisbury 1969, 16.

25 Salisbury 1969.

26 Marsh 1995, 50; Matthews 1980, 455; Olson 2002 [1965].

27 Cigler 1990; Flam and King 2005; Sen 1977.

28 Thaler and Sunstein 2008.



participation.<sup>29</sup> A behavioural perspective recognises that people seek justice for its own sake, superseding their self-interest.<sup>30</sup>

### *Cultural models*

New social movement theory maintains that most social movements today are international and largely concerned about their physical and psychological environment.<sup>31</sup> The internet is an enormous contributor to the global nature of social movements and dialogue in the public sphere. Social movements can be considered as sites of shared identity, and can be instrumental in radical identity-forming processes. Old loyalties are detached from conventional views or the status quo, and transferred to the new movement, bringing a sense of identity.<sup>32</sup>

Identity is a factor for both individuals and organisations becoming involved in or recognised in relation to a social movement. Investing in a political struggle means being socially identified as a certain kind of person or political actor.<sup>33</sup> An individual may identify with a cause by connecting intellectually, morally or emotionally with a broader community, but collective identity can be more difficult to understand at a group level.<sup>34</sup>

Whether utilitarian and transactional, altruistic or cultural, motivations behind group and movement expansion have tended to evolve within the democratic framework of the post-Second World War 'welfare state managed economy'. Even self-interested groups in a liberal democracy have positive implications: Beer saw pressure groups as extending the capacity of governments to access a wide range of opinions and policy proposals, and allowing the development, refinement and delivery of more complex, customised state services.<sup>35</sup>

How do pressure groups work?

Political scientists have identified five levels through which pressure groups or citizens convey their 'demands' to government:

- Concerned individuals acting of their own accord represent interests, or advocate for others.
- Spontaneous group activity occurs, that is unplanned and unorganised.

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29 Flam and King 2005; Kahneman 2003, 1469.

30 Rawls 1971.

31 Habermas 1995.

32 Melucci 1994.

33 Holland, Price and Westermeyer 2018, 287.

34 Fominaya 2010, 394, 398.

35 Beer 1982.

- Groups of people sharing a common trait or concerns form non-association pressure groups.<sup>36</sup> Examples include particular cultural groups or localised citizens concerned about a particular development in their town or suburb.
- Organised groups represent interests in a more sophisticated way through institutions, such as businesses, educational institutions and non-government organisations.
- Associations and specific lobbying organisations representing particular groups advocate to influence how political, social and economic goods are distributed in explicit policy changes.<sup>37</sup>

How the latter advocate depends on the structure of the pressure group.

#### *Structures and roles of pressure groups*

The structures of pressure groups depend upon their organisation and expertise. While no single structure is common to pressure groups, typical features can be observed. Pressure groups require spokespeople to provide media comment. Depending on the pressure group's size, other spokespeople may handle specific policy areas, and organisational teams focus on specific areas of policy. Pressure groups are often quite geographically diverse, so regional co-ordination may be needed (though since the internet became widespread, this is less important). Behind the figureheads and policy teams, administration workers keep the group running.

Pressure group organisations tend to be concentrated in the national and state capital cities, professional, and to varying degrees, integrated into the policy process.<sup>38</sup> Differing constitutional powers means that state governments are lobbied on some issues, whereas the Commonwealth is lobbied on others. Often, both levels of government receive representations. However, representation is only one role of pressure groups.

In their quest to change policy, pressure groups often perform three distinct roles:

- *Representation* has a number of meanings in political science, but in this chapter it refers to participation in the polity. Pressure groups represent both constituencies and issues, mostly at the same time. While representing issues is relatively straightforward, representing constituencies is more fraught. Some constituencies expect representatives to convey the demands of the majority – commonly called the ‘delegate’ model of representation. Other constituencies expect representatives to gather relevant research and information, weigh up the issues and use their own judgement to seek the best outcomes for those represented – the ‘advocate’ model of representation. Of these two models, the latter provides representatives with greater freedom of action.

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36 Matthews 1980, 447.

37 Hogan 1996, 158.

38 Warhurst 2006, 331.

- *Education* by pressure groups also takes several directions: educating their constituency, the decision makers (such as politicians and regulators), policy advisors (in the form of bureaucrats or political staffers), and the wider community, including the media. This may entail a variety of strategies, including speaking events, educational literature, letters, submissions to government, talking on radio and even doorknocking.
- *Scrutiny* provides an 'audit' role: conducting research where necessary, ensuring politicians and bureaucrats are aware of information and arguments, making sure information used by policy makers or in the media is correct, and checking correct procedures are followed. If necessary, it means taking matters to court for judicial review.<sup>39</sup>

#### *Strategies used to influence policy makers*

Pressure groups demonstrate these roles in the strategies they employ, including:

- Direct and indirect lobbying of politicians, policy advisors and political parties, and the public. Indirect lobbying aims to change government policy through lobbying people and bodies which themselves may have influence on government decision-makers, such as lobbying political parties and the public.
- Agenda-setting through lobbying activities, media work, or direct communications with the public.
- Electioneering through mobilising support or opposition for candidates or parties based on their policy positions, or influencing public opinion so that the wider public is inspired to act.

Pressure groups and issue movements can be more experienced and successful than other political players in pursuing their policy agenda: not even political parties can fully control their agenda, as others propose issues that affect it. Ian Marsh notes that 'veto power' can be exercised by stakeholders who are negatively affected by a policy change, and this can be more easily mobilised than support for the potential beneficiaries of change. He observes:

Together, interest groups and issue movements challenge the integrating, opinion forming and agenda setting capacities of the major political parties. They do this by advancing and defending a widened and more differentiated political agenda.<sup>40</sup>

Yet despite any success, a group's reliance on electoral tactics over party politics or bureaucratic involvement is a sign of weakness. This is because it depends on a concerted campaign rather than integration into the policy system. Similarly, although protest can be powerful, it is a less assertive form of leverage because it is

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<sup>39</sup> Matthews 1980, 464.

<sup>40</sup> Marsh 1995, 47–8, 101–2.

often undertaken by groups without ‘insider’ knowledge or contacts, whether from lack of resources or exclusion from consultation.<sup>41</sup>

A group or movement’s choice of strategies depends largely on its resources, but also on the political system and its conventions, and on the goal.<sup>42</sup> A lack of power does not preclude successful lobbying by less-resourced pressure groups, particularly where a pressure group boasts experience and evidence to persuade policy makers of an argument. As a result, such pressure groups may become more formally involved in the policy system.<sup>43</sup>

Excluding electoral tactics, focusing a lobbying effort on an individual politician can be effective.<sup>44</sup> It prevents some difficulties encountered when lobbying parliamentary groups, where party discipline dominates responses. Although contact with a member of parliament is usually referred to the relevant minister or at times to Cabinet, it can also become a ‘fast track’ to raising the issue in a policy area.<sup>45</sup> Of course, lobbying also involves garnering support from others, including the media.<sup>46</sup>

#### *Participation and involvement within policy-making institutions*

Placing an issue on the policy agenda, lobbying and developing policy is a time-consuming process of ‘continuous contestation’. It often involves participation from a number of pressure groups to reach policy decisions.<sup>47</sup> Negotiation is important in policy making, as is ongoing interaction within the policy cycle.<sup>48</sup> Ideally, the policy process engages local communities and an array of voluntary groups, but for decades governments have preferred to deal with one ‘umbrella’ group, rather than a number of smaller organisations.<sup>49</sup>

Although some political lobbying is secretive,<sup>50</sup> most pressure group attempts to intervene in the polity are part of broad public consultation on the public record. Pressure groups are useful to governments, offering representation, lending authority, and providing knowledge – often gathered through close involvement with the subject at hand.<sup>51</sup> This can assist policy bureaucrats to gather invaluable information and arguments about a particular policy before a decision is made, and is useful for policy specialists providing briefing or advice.<sup>52</sup> Governments use this expertise and the advice of pressure groups in policy development,<sup>53</sup> so engagement yields mutual

41 Vromen, Gelber and Gauja 2009, 244–5.

42 Rozell and Wilcox 1999, 2–3.

43 Vromen, Gelber and Gauja 2009, 236–7.

44 Barnett 2010, 47.

45 Matthews 1980, 467.

46 Barnett 2010, 73.

47 Vromen, Gelber and Gauja 2009, 322, 344.

48 Colebatch 2002.

49 Giddens 1998, 75–6; Matthews 1980, 458.

50 Warhurst 2007a, 9.

51 Warhurst 1986a, 311.

52 Barnett 2010, 17; OECD 2008, 8.

53 Warhurst 1986a, 313.

benefits. It can broaden the government's support by demonstrating stakeholder participation. Pressure groups achieve attention and credibility from the wider community, and leverage to pursue their own policy priorities if the opportunity arises.

Yet some pressure groups are relegated to the periphery of the policy-making process, despite access to the bureaucracy. Access alone is insufficient; without influence, meetings are likely to be held with more junior officials.<sup>54</sup> Consequently, pressure groups invest considerable effort and resources to demonstrate that the broader community supports their position, and sustain their argument that their view should be taken into account by policy makers. This explains their efforts to develop public opinion which promotes their own policy concerns, and supports their claim to speak for broader sections of the community.<sup>55</sup>

Groups without sectional power or economic leverage have been excluded from participation in policy making by their lack of representation in policy-making institutions.<sup>56</sup> Restrictions on representations from particular lobbyists and pressure groups can be a calculated strategy by governments to achieve particular political outcomes.<sup>57</sup>

The Organisation for Economic Co-operation and Development (OECD) recommends that a lobbying framework should include strategies to promote a 'level playing field'. Information should be made readily available, conflicts and preferential treatment avoided, and policy makers should be accessible to the broad community and not just a privileged few, so that all voices can be considered.<sup>58</sup>

#### *Insiders, outsiders, and thresholders*

Wyn Grant noted that pressure groups, like many other political entities, are frequently categorised as political 'insiders' or 'outsiders' in their access to government.<sup>59</sup> Insiders are very close to government, and numbers of pressure groups are integrated into government. Others remain excluded, presumably because they lack the requisite power, contacts or expertise.

Consequently, certain stakeholders are relatively subservient subjects of 'bureaucratic citizenship', while other groups enjoy a 'right' to consultation and participation in the policy process. The Australian Council of Social Services (ACOSS) is one of the few welfare or advocacy groups represented in policy advisory committees. In many ways it is an insider group, as it retains ongoing consultative status. Its lobbying role is accepted, but unlike 'producer' groups, ACOSS is not able to use economic sanctions to achieve a policy result.<sup>60</sup>

54 Warhurst 1984, 20–2.

55 Davis et al. 1993, 153–5.

56 Warhurst 1984, 21.

57 Sawyer 2002.

58 OECD 2008, 18–20.

59 Grant 1995.

60 Mendes 2006, 4.

Although groups are normally more able to bring about change as insiders, some pressure groups prefer to be 'outsiders'. An outsider signals a separation from government, which affirms a philosophical commitment to an issue and provides freedom and independence to express views or pursue agendas without real or perceived censorship. While some other outsiders may respect this position, outsiders tend to be valued less by politicians – particularly if the strategy could be perceived as extreme or unlikely to affect electoral results. However, changes in societal values or recognition of the pressure group's role and primary cause can change these perceptions.<sup>61</sup>

This delineation may be too simplistic, however. In the University of Aberdeen model, both insider and outsider strategies can be used by the same group, especially those who have only occasional involvement in the political sphere, or with limited opportunities to exert leverage (so-called threshold groups).<sup>62</sup>

#### *Cultural and communication work*

Literature about social movements sheds light on the way that issues are 'framed' by organisations to garner support for a social movement or for policy change. Framing refers to how groups link interpretations of individual interests, values and beliefs with their activities, goals and ideology. Entman provides a useful definition of framing and its policy implications:

to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation.<sup>63</sup>

When a particular event is framed as meaningful, individuals can be prompted to bring others together in collective action. Moreover, the event may serve to guide social movement organisations or pressure groups.<sup>64</sup>

Yet, for all social movements, challenging the status quo means reinterpreting certain aspects of social reality to elicit emotions and better prompt individuals to collective action for social change.<sup>65</sup> Frames, typically in a narrative form, structure the focus of an event or situation, and seek to direct emotions and energy accordingly. Narratives use stories to associate events and experiences, making meaning relatable and enhancing the message for a collective purpose. For social movements (and pressure groups) this is towards collective, political directions.<sup>66</sup>

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61 Davis et al. 1993, 140–1.

62 May and Nugent 1982.

63 Entman 1993.

64 Snow et al. 1986, 464.

65 Flam 2005, 19.

66 Eyerman 2005, 45–6.

Throughout the last three decades, as internet use became widely adopted, many pressure groups and social movements became able to use websites and social media to frame and communicate issues and mobilise people online. The internet significantly reduced the costs of recruitment and participation as public meetings, street encounters, and mailed newsletters became increasingly redundant in comparison to the low costs of internet engagement. While the internet supplemented traditional activism, it has also provided virtual spaces for exchanges and engagement.

Why do pressure groups and social movements cease to exist?

Just as groups and movements continue to form and act in response to their context, they also disappear if they are no longer relevant.

#### *Mortality and salience*

Recent studies of organisational mortality look at the life cycle of interest groups. Some pressure groups are not formed to persist and cease to exist once they achieve their goal.<sup>67</sup> Other groups that have longer-term interests may be less concerned about competing with other or new groups. Rather, they focus on identity, purpose, and adaptive responses to endure.<sup>68</sup>

A group's salience (prominence and suitability) is also reduced if it does not contribute to policy change and its influence is not recognised. That said, measuring influence is fraught as many intersecting factors affect the policy process – a pressure group's contribution is one factor among many. Funding and resources both affect how a group operates, its chances of contributing to change, and its ability to last.

#### *Funding and resources*

The resources pressure groups have at their disposal vary. If a group does not have sufficient numbers to support collective action, they may require more financial resources to support their operations. Many groups have membership income, whereas others rely on patrons or donors.<sup>69</sup> As groups form or begin to develop, they may overcome the 'free rider' issue without significant expense if they have a patron.<sup>70</sup> A range of figures and institutions can be patrons for a group or an issue, including benefactors, celebrities, and even the state itself.

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67 Gray and Lowery 2000.

68 Halpin and Thomas 2012.

69 Nownes and Cigler 1995.

70 Walker 1983, 401.

In fact, some advocacy groups have received government funding to represent the interests of those unable to represent themselves politically. Funding was mainly provided to organisations who would advocate for citizens without sufficient skills, power, resources or funds to advocate for themselves or participate in public debate. This offered a way to connect unrepresented people to government through peak bodies, helping to address inequalities in society.

A number of organisations, including the Women's Electoral Lobby (WEL), had funding withdrawn in the late 1990s, prompting speculation about alternatives for the representation of such groups.<sup>71</sup> Some groups, particularly organisations providing welfare support, appear to have replaced some of this funding through government service delivery contracts. These contracts included provisions to refrain from commenting on policy, so receiving the funding limited their capacity to comment on policy matters and undermined their ability to participate in robust political and policy debate.

Are they 'good' for democracy?

Within the framework of political economy and public choice theory, organised interests can be seen as a risk to good governance. Interest groups operate ultimately from the same selfish motive: to benefit themselves, even to the exclusion of others. They behave to maximise their economic, societal and legal or regulatory conditions as they pursue their objectives in the political sphere. Political and policy decisions may be attributed to the expedience and motivations of politicians and political parties, such as electoral advantage, rather than policy best practice.<sup>72</sup>

Ultimately, while governments determine which interests to indulge, interest group behaviour cannot be separated 'from the surrounding institutional and cultural framework'.<sup>73</sup> In other words, governments cannot always be relied upon to ensure a balance of optimal outcomes for all interests.<sup>74</sup> In this critique, interest groups potentially undermine governance and the economy.

#### *Democratic participation*

More positively, Beer identified pressure group types which governments can harness to achieve superior policy outcomes. In this way, pressure groups are functional: they support, rather than destabilise, governance and democracy (although Beer cautioned that special interests had the potential to 'impair' a political system's action for the long-term interests of its citizenry).<sup>75</sup> Beer's more optimistic approach

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71 Sawyer, Abjorensen and Larkin 2009, 233.

72 Frey 1980, 66; Self 1993, 45.

73 Marsh 1995.

74 DeAngelis and Parkin 1986, 316; Marsh 1995.

75 Beer 1982, 4.



suggests that participation, making a contribution and concern for quality of life are the values which inspire pressure group formation, rather than the self-interested interpretation of some rational choice scholars' view of pressure groups.<sup>76</sup>

Beer's interpretation recognises that pressure groups arise from various political environments. With this more 'contextual' perspective, each pressure group can be examined and assessed in the context of its own history and situation. In this view, collectives are motivated by the freedom of members of society to choose, as part of a democratic and inclusive 'provider' society. Interest, or pressure, groups are organised representations of citizens who *facilitate* democratic participation. The motive to form a pressure group is egalitarian rather than selfish, as groups lobby to address disadvantage.

Of course, motivations for pressure group participation overlap at times, as those motivated by egalitarian aspirations and robust democracy realise they can benefit from involvement in pressure groups, and can foster support from others motivated by their own benefit. Few groups could be definitively categorised as singularly motivated in a polity where different organisations and constituencies represent a variety of interests. Either way, the representational role of groups is critical for connecting the governed to their government.<sup>77</sup> Moreover, Putnam's characterisations of 'bridging groups' that interact with others, and 'bonding groups' that provide solidarity for a minority, can each be seen as both actors in government and society and precursors to more involved democratic participation.<sup>78</sup>

What kinds of pressure groups and social movements are in Australia?

Within Australia, pressure group participation is much higher than membership of political parties.<sup>79</sup> Pressure groups are often divided into two main camps:

- *Sectional organisations* represent traditional, recognised interests such as those of the labour force, business or primary industries.
- *Promotional groups* advance interests other than these main sectors, such as women's interests or environmental issues.<sup>80</sup> However, their focus on particular issues can result in representing narrower interests than those of other political groups.<sup>81</sup>

Both prefer different styles of action and different relationships with governments or political parties.<sup>82</sup> Despite some complications, most pressure groups in

76 Beer 1982; Marsh 1995, 57–80.

77 Zappala and Sawer 2001, 273.

78 Putnam 2000.

79 Warhurst 2006, 327.

80 Matthews 1980, 448.

81 Warhurst 1986a, 313.

82 Warhurst 2006, 329.

Australia could fall easily into these two categories; the categories may also overlap.<sup>83</sup>

### *Sectional groups*

Sectional interest groups represent significant sections of the community and the economy, and are usually integrated into party politics and government. Some are frequently involved in policy development, often as advisors.<sup>84</sup> Despite a goal of representing issues of their sector to influence policy, some sectional groups remain aligned to particular political parties, even to the disadvantage of their interests.<sup>85</sup>

Sectional interests represent a 'fixed' clientele,<sup>86</sup> and professional groups tend to be well-resourced sectional interests. Somewhat lesser resourced are producer groups who generate goods or services. This includes unions, which represent labour services. Groups representing the interests of state welfare service clients are more inclined to represent groups of individuals who are the clientele of the welfare provider groups. When banded together, conglomerations of interests may be called 'collectivist' pressure groups.<sup>87</sup>

Such groups prefer to lobby government through direct contact and raising awareness in the community, and typically defend their own particular interests. Labour organisations, business interests, primary producers' associations, professional and consumer associations are all characterised as sectional interests. Groups representing localised issues, migrant and Aboriginal organisations and churches are also typical sectional interests.<sup>88</sup>

The major sectional interest organisations operate under established conventions of participating in the policy-making process. Large sectional organisations such as the Australian Chamber of Commerce and Industry, the National Farmers' Federation, and the Australian Council of Trade Unions are involved in the policy process, and are often represented on government advisory committees. Sectional groups often employ highly qualified individuals to act for them; businesses frequently recruit former senior public servants for such roles.<sup>89</sup> In fact, business groups are significant sectional interests representing their views to government in Australia. The business lobby tends to be privileged because its resources, significant sectional interests and its production capability afford it power in a market-based economy, described as structural power.<sup>90</sup>

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83 Maddox 1996, 411; Warhurst 2006, 330.

84 Warhurst 1986a, 313.

85 Davis et al. 1993, 139; Warhurst 1984, 24.

86 Beer 1958, 133.

87 Beer 1958, 133–4.

88 Matthews 1980, 450–6.

89 Warhurst 1984, 5, 9.

90 Lindblom 1977; Warhurst 2007b, 53.

Agreement in sectional organisations can be difficult on contentious issues. Smaller, possibly more autonomous groups in a sector may be more courageous, and arguably more accurate when representing their particular constituency. This is because they can refuse to compromise on an issue for the appearance of unity.<sup>91</sup> In fact, some sectional groups may often promote causes not directly related to the interests of their members.<sup>92</sup> Yet there are advantages when pressure groups in a sector work together.

#### *Peak bodies*

Peak bodies are usually strong sectional pressure groups, with several democratic functions: involvement in the policy process of those most affected, developing the capacity of its member organisations to enter into the policy process, but also representing resource-poor sections of the community. Peak bodies represent, co-ordinate, inform, research, and develop policy on behalf of member organisations for their sector. Importantly, peak bodies are not service providers, though there are a number of ways in which they provide services to their members (e.g. in co-ordinating submissions, participating in consultation processes, and perhaps providing information).<sup>93</sup>

Peak bodies bring together a number of organisations in partnership to generate one voice speaking for the collective. For example, community organisations lobby individually, but ACOSS also acts as an ‘umbrella’ group for all of the welfare organisations. Even so, ‘representation’ must be considered by member organisations of the peak body in appointing someone to speak for them as they confer authority upon their peak body to speak on their behalf. In turn, peak bodies convey a strong message and provide clarity for policy makers on whom to approach to speak generally on the issues affecting a particular sector. Moreover, governments prefer to deal with pressure groups that are able to speak authoritatively.<sup>94</sup>

#### *Promotional groups and advocacy groups*

Unlike sectional interest groups, promotional pressure groups are more peripheral to government policy making. For this reason, they may use more electoral tactics.<sup>95</sup> Despite promotional groups appearing to succeed at the ballot box through either election of candidates, or significant portions of the voting public supporting candidates, they exert limited policy influence. This is because they are not integrated into government processes and relationships, and can be divisive for parties. That said, particular promotional groups obtained greater access to the

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91 Warhurst 1984, 23.

92 Matthews 1980, 448.

93 Sawyer 2002, 40–1.

94 Althaus, Bridgman and Davis 2007, 97–8, 111.

95 Matthews 1980, 460.

bureaucracy during past decades due to some government agencies engaging staff with links to promotional groups, or with a personal commitment to their cause.<sup>96</sup>

Promotional groups are often more concerned with advancing a particular issue or cause. Advocacy groups are a type of promotional group that seek to raise the status or profile of a section of society seen to be disadvantaged or deprived – socially, politically or materially. Promotional groups tend to focus on causes to advance the interests of society as a whole, and speak along policy lines rather than as a representative.<sup>97</sup>

Promotional groups can be further categorised into single-issue and multi-issue groups. This distinction is important, because promotional groups appear to be conflated as ‘single-issue groups’ by government and policy makers, when in fact their concerns can cross a breadth of matters within their cause or promotion. For example, the WEL, which was formed ‘to change social attitudes and practices which discriminate against women’ and works to protect the rights of Australian women, could easily be dismissed as a ‘single-issue group’. However, the WEL campaigns on a number of issues of relevance to women, including ending violence against women, health and democratic participation.<sup>98</sup>

On a cautionary note, at times promotional pressure groups may be proxies for more vested interests of sectional organisations.<sup>99</sup> For example, the Alliance of Australian Retailers was a group ostensibly opposed to the plain packaging of cigarettes because the policy would damage the business of small retailers. It was later found to be an ‘astroturf’ group (i.e. a fake ‘grassroots’ organisation) as it was funded by tobacco companies Philip Morris, British American Tobacco and Imperial Tobacco Australia.<sup>100</sup>

#### *Other types*

Single-issue pressure groups focus on raising the profile of a single cause or issue, perhaps as part of a social movement. Social reform movements seek to change norms rather than push for radical change, whereas radical movements seek to change the way society is structured. Groups and movements can be temporary, whether short-term or semi-permanent, emerging as needed. Fusion refers to when two or more groups or movements join for a common purpose.<sup>101</sup>

In the political sphere, the approach of single-issue pressure groups can be seen as a ‘thin edge of the wedge’, as they concentrate on one particular issue or one aspect of a more complicated issue, and they may not be integrated into either the party system or the machinery of government. They do not become

96 Warhurst 1984, 20–4.

97 Vromen, Gelber and Gauja 2009, 239.

98 Women’s Electoral Lobby n.d.

99 Matthews 1997, 271; Matthews 1980, 452–3.

100 Davies 2010.

101 Cole and Foster 2001.

part of government processes or advisory committees. Rather, single-issue lobby groups focus on raising awareness of their particular issue so it is adopted by more powerful pressure groups or the community itself. Ultimately, single-issue groups require politicians to identify themselves as either for or against their cause, and advocate for people to support or oppose the political candidate in turn. Such groups are often criticised by their opponents for a perceived or attributed negative effect on democracy, because they promote imposing a minority view on the majority – an accusation ‘levelled at non-party organisations on both the right and the left of politics.’<sup>102</sup> This view may be reinforced by political parties, who often dismiss the views or work of such groups. Parties are often unsettled by promotional groups, and unwilling to identify themselves with groups that could potentially deprive them of support.<sup>103</sup> That said, a number of single-issue groups, particularly in advocacy roles, play an important role in drawing attention to an injustice or setting an agenda for policy change.

Multi-issue groups promote several, usually interconnected or themed, issues. They are generally better resourced and therefore better able to promote their causes and concerns. At times, the delineation between single- and multi-issue groups is ambiguous. For example, an environmental group could be dismissed by politicians and policy makers as a single-issue group, yet such groups frequently campaign on related concerns such as greenhouse gas emissions, preservation of wilderness areas, and recycling. Similarly, the Australian Christian Lobby may engage on a number of issues including refugees, school curriculum and euthanasia, but is primarily concerned with ‘Christian principles and ethics [being] accepted and influencing the way we are governed, do business and relate as a society. We want Australia to become a more just and compassionate nation.’<sup>104</sup> An example of a demonstrably multi-issue pressure group campaigning on interconnected issues is GetUp!, which describes itself as a not-for-profit, grassroots advocacy organisation.<sup>105</sup> GetUp! pursues change to a variety of government policies, yet many of the issues Getup! advocates originate from the same progressive viewpoint.

## Conclusions

While the political sphere undergoes change from digital disruption and disaffection with democracy, pressure groups and social movements form an important conduit to ensure citizens’ voices are heard and reflected in policy. Theories of pressure group formation can help explain why some groups emerge and last. An individual’s decision to join a pressure group or social movement can be influenced by a variety

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102 Warhurst 1986b, 107.

103 Warhurst 1984, 2–3.

104 Australian Christian Lobby n.d.

105 Get Up! n.d.

of factors, but collective action is effective in bringing about change. Groups' roles of representation, education and scrutiny are used differently by groups who employ insider and outsider strategies. Whether they are political insiders or outsiders, they can use either or both kinds of strategies to exercise influence.

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# Religious communities and politics

Marion Maddox and Rodney Smith

## Key terms/names

Constitution, contracting, discrimination, religion, same-sex marriage, sectarianism, secularism, separation of church and state, sovereignty

Modern Western political thought usually conceptualises religion as private and personal and politics as public. This chapter demonstrates that throughout Australia's post-invasion history religious organisations and commitments have had many and varied public effects, both shaping and being shaped by political, social and economic factors. After examining theoretical questions about how religion should be understood in relation to politics, this chapter considers how religion has contributed to debates about nationhood, national identity and belonging. It then investigates religious communities' involvement in formal political processes, in relation to the party system, as political actors and as contractors of services.

## Defining religion

Political scientists have not always paid much attention to religion – and, when they do, they often do so without definition.<sup>1</sup> Yet religion is an elusive concept;

Maddox, Marion, and Rodney Smith (2019). Religious communities and politics. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Maddox 2015.

many languages have no word that is a ready equivalent of what English speakers understand as ‘religion’.

As Brent Nongbri pointed out, religion’s intuitive meaning for modern Westerners is ‘anything that sufficiently resembles modern Protestant Christianity’.<sup>2</sup> Traditions that do not fit that pattern tend to be either overlooked or reinterpreted to squeeze them into a Protestant Christian mould.

To help navigate this problem, Ira Allen and Saul Allen proposed that political scientists should think of religions as ‘systems of shared activity organized around transcendental signifiers’.<sup>3</sup> Focusing on activity systems (which are observable) avoids favouring faith or belief (which are not only inaccessible to the researcher but also of greater importance in some traditions than others). Similarly, ‘transcendental signifiers’ are observable in public discourse, and not limited to such things as deities (which not all traditions have). The Allens’ definition also helpfully avoids seeing ‘religion’ as static, allowing for the fact that such activity systems change over time, in interaction with other aspects of society, including the political.

#### Religion and democratic politics

Religious studies scholar Timothy Fitzgerald argued that the terms ‘religion’ and ‘politics’ acquired their modern meanings through being conceptually separated from one another in the 17th century. ‘In this new formula’, according to Fitzgerald, ‘religion has nothing in its true nature to do with “power” and ‘governance and the political state’ were redefined as ‘non-religious’. A consequence of the pattern Fitzgerald identified is that modern Western political thought has theorised that religion and politics are safest when kept separated.

This preference for separation is often traced to the trauma of the European wars of religion in the 16th and 17th centuries.<sup>4</sup> The wars of religion were conventionally understood as being ended by the Peace of Westphalia (1648), a series of peace treaties that enshrined the principle that rulers could choose their own state religion, out of Catholicism, Lutheranism or Calvinism, while giving limited rights to citizens who did not adhere to the state religion.

The Peace of Westphalia is often held to have inaugurated a new era of tolerance, religious freedom and the liberal state, ending endemic religious violence.<sup>5</sup> Maintaining peace, then, required citizens in liberal democracies to keep their religious views to themselves.<sup>6</sup>

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2 Nongbri 2013, 18.

3 Allen and Allen 2016, 559.

4 Fitzgerald 2015.

5 Cavanaugh 2009, 130–41.

6 Audi 2000.

William Cavanaugh influentially labelled this account the ‘myth of the wars of religion’ and argued that it is ‘false’ because, among other reasons, religious tolerance and respect for religious freedom emerged only gradually, mostly long after the Westphalian settlement.<sup>7</sup> Cavanaugh concludes that the myth instead legitimates the secular state’s claim to the exclusive use of violence – including violence wielded against religious groups, especially those perceived as challenging state interests.<sup>8</sup>

To Naomi Goldenberg, religions are more helpfully understood as ‘vestigial states’ – that is, ‘the cultural remnants of former sovereignties that persist within current states’.<sup>9</sup> The main difference lies in the ‘abstractions they cite to justify their authority’.<sup>10</sup> Where fully functioning states ‘might ground themselves on such terms as freedom, equality, justice, or as the proper homelands of an idealized race or ethnicity’, the ‘vestigial states called religions often appeal to some form of divinity (generally male)’.<sup>11</sup> Goldenberg’s observations clarify that the kinds of organisations conventionally called religions, and those conventionally called states, share concerns with the organisation and distribution of (among other things) material goods and power (of various kinds). Little wonder separating ‘religion’ from ‘politics’ proves much harder than it sounds.

In Australia, as elsewhere, religious communities have exhibited varying political alignments, and the rise of the ‘no religion’ category provokes further questions. Moreover, the demand to keep religion out of political debate is arguably anti-democratic, preventing some people (the religiously committed) from drawing on their deepest convictions in thinking about public concerns. Rejecting the conventional wisdom that religion renders public life unstable, several scholars have argued for democracy over secularism.<sup>12</sup> Lori Beaman gives the name ‘deep equality’ to the forms of ‘agonistic respect’ that facilitate democratic community across religious differences.<sup>13</sup>

#### Religion and politics at Federation

The first national Census, in 1911 (following separate efforts by the various colonies), found that 96 per cent of respondents identified as Christian, with ‘Church of England’ (Anglican) the largest group, followed by Catholics, Presbyterians, Methodists and smaller proportions of other denominations (mostly Protestant) and undefined. The largest non-Christian grouping was ‘Hebrew’

7 Cavanaugh 2009, 177.

8 Cavanaugh 2009.

9 Goldenberg 2013.

10 Goldenberg 2013.

11 Goldenberg 2013, 40–1.

12 Bader 2008; Connolly 1999.

13 Beaman 2017.

(Jewish), at 0.3 per cent, followed by Confucian, ‘Mohammedan’ (Muslim), Buddhist and Pagan. Agnostics, Freethinkers, Atheists and No Religion collectively made up half a per cent.

While this Christian dominance might look to modern eyes like a recipe for consensus, in fact colonial parliaments debated religion fiercely in the decades leading up to Federation (1901). Between 1853 (South Australia [SA]) and 1880 (New South Wales [NSW]), all the colonies abandoned public subsidies for religious schools, and most ended religious instruction in public schools. Whether excluding religion almost entirely (as in SA) or building non-sectarian religion into the curriculum (NSW), the goal was to make education as inclusive as possible.<sup>14</sup>

#### The Constitution and formal political institutions

Australia’s Constitution and formal political institutions are not completely secular, nor do they embody religious values, language and symbols to the extent of those of some other liberal democracies, including the UK. People who become Australian citizens, for example, are free to make their pledge ‘under God’ or not; either way, the shared objects of their loyalty are distinctly liberal democratic and secular.

The *Commonwealth of Australia Constitution Act 1901* (Cth) begins with reference to ‘the people ... humbly relying on the blessing of Almighty God’, an expression that the late 19th-century framers of the Constitution thought would be inclusive enough to avoid offending adherents of most faiths. A century later, in a much more secularised social context, delegates debating a possible Australian republic at the 1998 Constitutional Convention were happy to retain a reference to God in the preamble to the Constitution, seeing it as a reminder of a generic source of authority over lawmakers or as a reflection of the nation’s best aspirations, or both.<sup>15</sup>

The other direct reference to religion in the Constitution occurs in section 116, which states:

The Commonwealth shall not make any law for the establishing of a religion, or for imposing any religious observance, or for prohibiting the free exercise of religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

A casual reading of section 116 might suggest that it erects a strong, American-style wall separating church and state. In fact, the Constitution’s drafters were not particularly careful about the wording of section 116, leaving constitutional protection of religious freedom in Australia relatively weak. While the High Court

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<sup>14</sup> Maddox 2014a.

<sup>15</sup> Maddox 2001, 41–90.

has defined 'religion' broadly, it has interpreted 'law for' in section 116 as prohibiting the Commonwealth only from making laws specifically *intended* to establish a religion, impose observance, or prohibit free exercise. The court has upheld Commonwealth laws that impinge on the exercise of a religion but are not designed to do so. In addition, section 116 does not prevent the states or territories from making laws concerning religion. Attempts in 1944 and 1988 to address these issues via constitutional amendments both failed.<sup>16</sup>

The ban on religious tests for offices and public trusts in section 116, along with Australia's increasing independence from the UK after 1901, meant that the King or Queen of Australia's oath as British monarch to defend the Anglican faith – potentially offensive to Catholics and other non-Anglicans – was pushed into the background.<sup>17</sup> The governors-general who have represented the monarch in Australia since 1901 have included Catholics, Anglicans, other Protestants, Jews and one avowed atheist. Government ministers, judges and parliamentarians have been even more diverse in their religious affiliations. On taking office, they swear either an oath ending with 'so help me God' or an affirmation omitting those words. As noted above, Australian parliaments include some religious symbolism and practices; for instance, almost all Australian parliaments start their daily business with prayer.<sup>18</sup> Most traditions on display in those parliaments do not have religious origins but have developed within the institutions themselves, drawing on their Westminster predecessors.

### Indigenous religion

For at least 60,000 years, the territory that is currently Australia was covered by a dense network of interlocking activity systems for organising power, knowledge, law and goods. These systems were conceived in terms of humans' relationships with one another, with the land and with non-human others, both physical and spiritual. The languages in which these systems were expressed – more than 250, with some 800 dialectal varieties<sup>19</sup> – did not distinguish 'religion' from other areas of life, such as political or economic. In the words of native title scholars Michael Dodson and Diana McCarthy, 'The Indigenous process by which historical events become part of an everlasting and immutable Creation are ritualistic and religious'.<sup>20</sup> In addition to areas that European ways of thinking normally consider 'religious', this process is also the basis of some matters – such as land ownership – that European ways of thinking consider economic and of others – such as relationships, rights and responsibilities between groups of people – that European ways of thinking consider

16 Beck 2018.

17 Bonney 2013.

18 Maddox 2001, 109–17.

19 Australian Institute of Aboriginal and Torres Strait Islander Studies 2019.

20 Dodson and McCarthy 2006.

political. As Dodson and McCarthy observe, ‘the fit between traditional knowledge systems and Australian law is neither close nor comfortable.’<sup>21</sup>

In the colonial era, missions tried (with a few exceptions) to reshape Indigenous peoples’ political and economic systems, along with their beliefs, to fit a European image of a ‘Christian’ way of life.<sup>22</sup> Belief had practical consequences; for example, colonial courts in the 1840s denied the testimony of Indigenous witnesses because they were ‘ignorant of the existence of a God or a future state’ or even ‘had no religion at all.’<sup>23</sup>

Yet, little more than a century later, Indigenous law was considered *too* religious for an Australian court to recognise. The 1971 *Gove* case was the first land claim to be heard in a federal court. Justice Blackburn found that the Yolŋu claimants’ relationship to their land was ‘religious or spiritual’ and that this precluded the court from granting their claim.<sup>24</sup> In a further twist, anthropologist Nonie Sharp has shown how the *Native Title Act 1993* (Cth) finally undid the doctrine of terra nullius and recognised Indigenous ownership, but at the cost of downplaying the religious and spiritual aspects of Indigenous land law.<sup>25</sup>

In 2017, the First Nations Constitutional Convention, meeting at Uluru, encapsulated the unity of the spiritual, material and political by declaring that Indigenous sovereignty:

is a spiritual notion: the ancestral tie between the land, or ‘mother nature’, and the Aboriginal and Torres Strait Islander peoples who were born therefrom, remain attached thereto, and must one day return thither to be united with our ancestors. This is the basis of our ownership of the soil, or, better, of sovereignty.

The Uluru statement then spells out the consequences of that sovereignty’s fracture, including catastrophic incarceration rates. It proposes political solutions, including a Makarrata Commission, and a First Nations Voice enshrined in the Constitution, enabling ‘this ancient sovereignty’ to ‘shine through as a fuller expression of Australia’s nationhood.’<sup>26</sup>

#### Patterns of religious belonging and commitment

The pattern of religiosity in a country affects the ways that religious communities interact with politics. A country in which a single religion has the committed

21 Dodson and McCarthy 2006.

22 Rowse 2017.

23 Smandych 2006, 107.

24 *Milirrpum v Nabalco Pty Ltd and the Commonwealth of Australia* (1971) 17 FLR 141, 167, 270–1 (*Gove*).

25 Sharp 1996, 149–88.

26 First Nations National Constitutional Convention 2017.

**Table 1 Religious identification in the Census since Federation (selected years)**

|  | 1901        | 1947        | 1971        | 1996        | 2016        |
|--|-------------|-------------|-------------|-------------|-------------|
| Catholic                                       | 22.7        | 20.9        | 26.9        | 27.0        | 22.6        |
| Anglican*                                      | 39.7        | 39.0        | 31.0        | 22.0        | 13.3        |
| Other Christian                                | 33.7        | 28.1        | 28.3        | 21.9        | 16.3        |
| <b>Total Christian</b>                         | <b>96.1</b> | <b>88.0</b> | <b>86.2</b> | <b>70.9</b> | <b>52.2</b> |
| Islam  | **          | **          | 0.2         | 1.1         | 2.6         |
| Buddhism                                       | **          | **          | **          | 1.1         | 2.4         |
| Hinduism                                       | **          | **          | **          | 0.4         | 1.9         |
| Judaism  | 0.4         | 0.4         | 0.5         | 0.4         | 0.4         |
| Sikhism  | **          | **          | **          | **          | 0.5         |
| Other religions                                | 1.0         | 0.1         | 0.8         | 0.4         | 0.4         |
| <b>Total religions other than Christianity</b> | <b>1.4</b>  | <b>0.5</b>  | <b>1.5</b>  | <b>3.4</b>  | <b>8.2</b>  |
| No religion                                    | 0.4         | 0.3         | 6.7         | 16.6        | 30.1        |
| Not stated                                     | 2.0         | 11.1        | 6.1         | 9.0         | 8.5         |

Source: ABS 2017; ABS 2014.

\*Includes Church of England \*\* Less than 0.1 per cent

support of the vast majority of the population will have a different political dynamic to a country in which a number of religions each have strong community support or a minority of citizens have a religious commitment and the majority is non-religious. The specifics of the religions concerned and their historical presence in a country will also be important.

Australia's contemporary pattern is religious pluralism. According to the 2016 Census, the largest single religious group – 30 per cent of the population – were those who identified as having no religious commitment (Table 1). Australians who identified as Christian comprised around half the population (52 per cent). Catholics were the largest individual Christian group (23 per cent), followed by Anglicans (13 per cent). The 'other Christian' group (16 per cent) is diverse, with



Uniting Church identifiers comprising the largest sub-group at 4 per cent. ‘Other’ religions are also diverse, with Muslims, Buddhists and Hindus the largest non-Christian religious groups. Each of the categories in Table 1 hides diversity within religious groups: not all Catholics, Anglicans, Buddhists, etc. share the same beliefs and practices. Those with no religious identification will also have had different experiences of religion through their lives.

It is also clear from Table 1 that Australians’ religious identities are more diverse now than they were at Federation in 1901, when nearly all of the population identified as Christian. Those Christians were divided, with the largest two groups being Church of England (Anglican in contemporary terms) and Catholic. The ‘other Christians’ were overwhelmingly Protestants – Presbyterians, Methodists, Congregationalists, Baptists and the like. This pattern of an Anglican and other Protestant majority and a significant Catholic minority reflected the colonising populations’ overwhelmingly British and Irish origins, which had not altered much by the Second World War. As other parts of this chapter show, this foundational period of Christian dominance and subsequent diversity has had important effects on Australian political institutions, political organisations and public policies.

Greater religious diversity began to develop from the 1970s, driven by two main processes. The first was the growth of immigration from outside Europe, which has increased the proportion of Australians from Islamic, Buddhist, Hindu and Sikh traditions. At the 2016 Census, 4 per cent of people born in Australia identified with a religion other than Christianity, compared with 21 per cent of people born overseas.<sup>27</sup>

The second process has been secularisation. Since the 1970s, fewer and fewer Australians have declared any religious allegiance. In 2016, 10 per cent of Australians aged in their 80s and 90s had no religion, compared with 25 per cent of those in their 50s and over 40 per cent of those in their 20s.<sup>28</sup> This secularising trend is also evident in patterns of religious practice and belief. About half of Australian adults attended at least one religious service a month in 1950, compared with one-fifth by the 1990s and one-sixth over the past decade. Practices such as prayer, as well as belief in God, have also declined. In 2018, 30 per cent of Australians prayed or meditated at least once a week. Twenty-six per cent believed in God, with another 30 per cent believing in a ‘spirit’ or ‘life force’.<sup>29</sup>

This drift away from religious identities, practices and beliefs echoes the trends in most other Western liberal democracies, with the exception of the USA. The exact causes of this widespread trend have been debated, with factors such as increasing scientific education, increasing feelings of personal security, decreasing levels of childhood religious socialisation and decreasing trust in religious organisations all proposed as important.<sup>30</sup>

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27 ABS 2017.

28 ABS 2017.

29 Pepper and Powell 2018; Smith 2001, 253–4.

30 Norris and Inglehart 2011.

These patterns of religious pluralism and secularism mean that religion has very different interactions with Australian politics than it does with politics in the USA. In America, Christian identification, church attendance, beliefs and devotional practices are more common and more socially valued than they are in Australia.<sup>31</sup> Devout American politicians who invoke Christian language thus share religious experiences and beliefs with many American voters in a way that devout Australian politicians do not. This does not mean that religion is unimportant in Australian politics; however, it means that American patterns of religious influence on politics cannot be assumed to operate in Australia.

#### Parties and voters

When the Australian party system solidified in the early 20th century, it did so primarily along class lines. The Australian Labor Party (ALP) was born out of the trade union movement, while the forerunners to the current Liberal and National parties drew heavily on the support of urban and rural businesspeople and professionals. This class divide had some religious undertones, particularly in the non-Labor parties, which were dominated by Protestants. Labor attracted Protestant as well as Catholic activists and leaders. Labor's first five federal leaders were Protestants, before the party elected a Catholic leader, James Scullin, in 1928. Despite the ALP's diversity, a mythology of Labor Catholicism versus Liberal–National (Coalition) Protestantism became popular in Australia, particularly after the First World War conscription debate saw prominent Protestants, including Prime Minister Billy Hughes, leave Labor to take up leading roles in the non-Labor parties.<sup>32</sup>

Labor's ranks continue to include Catholics and Protestants. By contrast, the non-Labor parties remained dominated by Protestants until the final decades of the 20th century, when upward social mobility among Catholics increased their presence and visibility within the Liberal and National parties. Three of the four federal Liberal leaders since 2007 have been Catholics. This trend effectively ended any lingering sectarian traces in the major party contest.<sup>33</sup>

The most prominent Australian party that could legitimately be seen as a 'church' party was the Democratic Labor Party (DLP), which split from the ALP in the 1950s and had strong connections with the Catholic Church.<sup>34</sup> The DLP held seats in the Senate from 1956, using its voters' preferences and the Senate balance of power to extract concessions from Coalition governments until it lost electoral support and disbanded in the 1970s.

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31 Putnam and Campbell 2010.

32 Hogan 1987, 178–88

33 Hogan 1987, chapter 10.

34 Warhurst 2005.

More recently, minor parties promoting conservative Christian values have held a handful of seats in federal and state parliaments. The most notable have been the Christian Democratic Party, the re-formed DLP, Family First and the Australian Conservative Party; however, none of these parties has achieved nationwide organisation or support. By the same token, minor parties such as the Secular Party that have attempted to mobilise the growing number of non-religious Australians against the ‘power and privileges’ enjoyed by churches have secured negligible electoral support.<sup>35</sup> Right-wing populist minor parties, such as Pauline Hanson’s One Nation, have built support partly through expressing hostility to Muslim immigrants and Islamic traditions.<sup>36</sup>

If the vast majority of Australians with religious commitments do not take the opportunity to vote for ‘religious’ parties, this does not mean that religion does not affect their voting. Political scientists have identified two longstanding relationships between religion and voting in Australia. The first is that religious identification affects party support. At the 2016 federal election, for example, 44 per cent of Catholics voted for Labor or the Greens, compared with 37 per cent of Anglicans and 33 per cent of Uniting Church adherents. Voters with no religion were most likely to support Labor (56 per cent). The second pattern is that more observant members of religious groups are less likely to support left-of-centre parties. In 2016, 33 per cent of voters who attend religious services at least once a month voted Labor or Green, compared with 49 per cent of voters who never attended.<sup>37</sup>

These differences are weaker than they once were but they persist. No entirely satisfactory explanation has been advanced. More religious Australians are more conservative on issues such as euthanasia, sexuality and abortion; however, they are not consistently more conservative on the economic and social issues that typically divide the major parties. Moreover, the religiously observant are likely to be exposed to competing messages from their leaders about how they should vote. The distinctive socio-economic profile of many local churches and other religious communities – older and more middle class than the wider community – may also promote conservative or aspirational values. The evidence remains unclear.<sup>38</sup> There is also very limited evidence about how growing Australian religious communities such as Islam, Hinduism and Buddhism affect patterns of voting.<sup>39</sup>

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35 Secular Party of Australia 2019.

36 Pauline Hanson’s One Nation 2018.

37 Bean 2018, 240–1.

38 Perales, Bouma and Campbell 2019, 118–19; Smith 2009; Smith 2001, 264–76.

39 Al-Momani et al. 2010.

## Religious commitment among political elites

Australia's federal politicians have at least as high rates religious adherence as the general population.<sup>40</sup> Also, leaders have become more outspoken about their religion. For example, in the decade to 2019, three prime ministers (Rudd, Abbott and Morrison) have regularly discussed their Christian faith (respectively, Anglican, Catholic and Pentecostal), while a fourth (Turnbull) was a less vocal, but consistent, church attender (Catholic). Only Julia Gillard claimed no religion. The tendency for Australian politicians to discuss their religion publicly has increased as popular levels of religious commitment have fallen.<sup>41</sup>

Australian parliaments, not noted for ethnic or gender diversity, have nevertheless long enjoyed a range of religious representation. Jewish and 'freethinking' members served in colonial parliaments and, after Federation, in the national parliament, representing all political positions. For example, between 1858 and 1866, Judah Moss Solomon served in both houses of the SA parliament; in 1899, his son, Vaiben Louis Solomon, became the colony's first Jewish premier. Sir Isaac Isaacs was a member of the first parliament, served as attorney-general in 1905–1906 and, as Australia's ninth governor-general, became the British Empire's first Jewish vice-regal representative. In 1917, the NSW Legislative Assembly could not sit on Yom Kippur because both the speaker and deputy speaker were Jewish. The 45th parliament (2016–19) included six Jews (ALP, Liberal and Centre Alliance) and four Muslims (ALP and Greens).

It is tempting to look for direct correlations between politicians' religions and specific policies, but the reality is considerably more complicated. To take a few examples, the ALP's longstanding opposition to public funding of Catholic schools was permanently altered by Gough Whitlam, a self-described agnostic from a Protestant family. Further education policy changes favouring Christian schools and introducing religious chaplains in public schools were initiated by John Howard, who, while in office, described himself as only a sporadic churchgoer.<sup>42</sup> Same-sex marriage was eventually legislated under the Catholic (and marriage equality advocate) Malcolm Turnbull, having been resisted by the atheist Julia Gillard. Religion is not an independent force in political processes; it interacts with party pressures, politicians' career paths, electoral calculations and community expectations, among other factors.<sup>43</sup>

40 Maddox 2001, 11–19.

41 Crabb 2009.

42 Maddox 2014a, 183; Maddox 2005, 258.

43 Maddox 2014b.

## Religious communities as political actors

While many religious communities will claim to be non-political, they engage in politics in various ways and often develop theological or doctrinal understandings of this political involvement and its limits. Local religious communities can have some impact on the politics of their immediate communities and are in turn affected by local government planning decisions and the like. Although determined advocacy by local religious leaders sometimes reaches wider audiences, their efforts are mostly limited to mobilising members of their congregations and surrounding communities. In doing so, local religious communities often respond to positions taken by their state or national leaders, to religious advocacy and lobby groups, or to wider social movements that include religious groups. These local responses may not be uniform, particularly when the state or national leadership of a religious community is openly divided on a public issue or offers no clear guidance on it. Before the 2017 postal survey of Australian voters on same-sex marriage, for example, the governing bodies of most major religious groups held official positions, mostly opposing same-sex marriage. National and state leaders of some religious communities were openly divided on the issue, however, which gave local religious leaders scope to openly oppose, or at least fail to endorse, the official line of their organisations.<sup>44</sup>

As the same-sex marriage debate indicated, there is no peak religious organisation that speaks in the public arena for all religious communities, or even for all Christians. Most, but not all, major Christian denominations are members of the National Council of Churches in Australia (NCCA), which, among other activities, makes statements on public policy issues such as economic justice, Aboriginal and Torres Strait Islander rights, refugee rights and welfare, foreign aid, peace and security. Member churches are not, however, bound by NCCA statements. Muslims Australia (the Australian Federation of Islamic Councils) and the Executive Council of Australian Jewry (ECAJ) act as national peak bodies for most significant Islamic and Jewish communities. The NCCA, Muslims Australia and ECAJ maintain interfaith dialogue and express similar positions on some policy issues, such as religious tolerance, refugees and Aboriginal and Torres Strait Islander rights; however, united action in other policy areas has been limited.<sup>45</sup>

Internally, religious communities reflect a similar diversity of views about public issues. As John Warhurst points out in the case of the Catholic Church, often mistakenly seen as a monolithic organisation, the ‘Catholic lobby’ is a diverse patchwork that includes formal bodies such as the Australian Catholic Bishops Conference, major service delivery agencies such as Catholic Social Services Australia, Catholic Health Australia, the National Catholic Education Commission

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44 Perales, Bouma and Campbell 2019, 114–5.

45 Executive Council of Australian Jewry 2019; Muslims Australia AFIC 2019; National Council of Churches in Australia n.d.

and Catholic universities, advocacy bodies such as the Australian Catholic Social Justice Council, the Australian Catholic Migrant and Refugee Office and the Australian Catholic Council for Employment Relations, charitable bodies such as St Vincent de Paul, pressure groups in which Catholics have played major roles such as Right to Life Australia, along with key individual clergy and laypeople. In some policy areas, such as health care and education, the Catholic lobby acts as an insider, negotiating directly with government officials on the basis that Catholic hospitals and schools form a key part of policy implementation. In other policy areas, such as refugees, Aboriginal and Torres Strait Islander rights, peace and security, Catholic bodies rely on outsider repertoires of public mobilisation and protest, often through participation in broader social movements.<sup>46</sup>

Several developments in the lobbying efforts of Australian religious communities have been evident in recent decades. The first has been the growth, since the 1960s, of interest groups and social movements with positions that directly challenge traditional religious values. Where once the Christian churches were dominant voices, particularly on 'moral' issues such as euthanasia, sexuality and abortion, now they are just one set of voices competing with a range of other vocal and well-organised interests.

The sectarian conflict between Catholics and Protestants (including Anglicans) that marked the lobbying efforts of Christian churches for much of the 20th century has largely disappeared, replaced by an increasing tendency to unite against secular voices in policy debates.<sup>47</sup> In recent years, this co-operation has extended to Islamic and other religious communities. In addition, sections of the churches have sought a role within social movements alongside secular groups with whom they share positions, a pattern that developed from the late 1970s in movements for peace, Aboriginal land rights, refugees and the environment.<sup>48</sup>

The most recent development has been the increase in professional lobbying by or on behalf of religious communities. This development has been most obvious in the Canberra-based Australian Christian Lobby, which has employed staff to lobby parliamentarians and influence voters since 2001, mostly in support of conservative policy positions. Its techniques are partly borrowed from similar organisations in the USA, but it has less influence than its American counterparts.<sup>49</sup>

#### Religious communities as service providers

Australia's shift to neoliberal governance has increasingly built religious organisations into policy implementation, as providers of services that were previously

<sup>46</sup> Warhurst 2008.

<sup>47</sup> Hogan 1987.

<sup>48</sup> Smith 2014.

<sup>49</sup> Maddox 2005; Payne 2019; Smith 2014; Smith 2009.

supplied predominantly by public agencies. Especially since the mid-1990s, education, welfare, aged care, health and disability services have been progressively privatised, with religious organisations as major participants. Economist Paul Oslington calculated in 2015 that, due to contracting arrangements with governments, ‘Church-related not-for-profit organizations deliver approximately half of social services in Australia’, and that this proportion would increase due to the introduction of the National Disability Insurance Scheme.<sup>50</sup>

The effects of this shift included hastening the de-unionisation and deregulation of workforces in social services. The transfer of substantial quantities of previously government services to religious organisations, which are exempt from aspects of anti-discrimination law, removed a significant proportion of the education, health and welfare workforce from the reach of these protections and raised questions about the use of public money for services that were not provided on a purely non-discriminatory basis. Religious organisations have historically been effective critics of government policy; but, from the mid-1990s, the contracts under which they become agents of government policy often included ‘no-criticism’ clauses, limiting this capacity.<sup>51</sup> By giving a publicly funded boost to organisations with declining memberships, Oslington observed, the contracting system put ‘most Australians’ contact with Christianity ... through education or social services rather than congregations’.<sup>52</sup>

Providing contracted services also gave religious organisations an edge in debates about religious freedom. Through the 20th century, discussion of religious freedom mainly centred on protecting members of religious minorities from discrimination, and many conservative Christian churches were strong opponents of moves to strengthen religious freedom, extend the reach of section 116 of the Constitution or initiate laws against religious discrimination, fearing that such moves would compromise their right to proclaim their own beliefs. In the 21st century, discussion of religious freedom shifted to conservative churches’ concerns about same-sex marriage, and especially fears that they would lose their entitlement to discriminate on the basis of gender, gender identity and sexual orientation, or to teach a heterosexual-only view of marriage.<sup>53</sup>

One area where the involvement of religious organisations in delivering public services has been particularly evident is schooling. By 1880, all of the Australian colonies had abolished public subsidies for religious schools, and from then until 1963, religious schools received no public money. ‘State aid’, as it was called, was reintroduced incrementally, first by the Coalition government under Robert Menzies. This was followed by a much larger expansion, in 1973, by the Labor government led by Gough Whitlam. The original justification was equity, given the

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50 Oslington 2015.

51 Maddox 2005, 228–59.

52 Oslington 2015.

53 Poulos 2019.



dire state of many Catholic schools that were unable to afford even basic facilities. The return to 'state aid' was part of a larger package of education reform overseen by the Commonwealth Schools Commission, which was required to observe the 'primary obligation ... to provide and maintain government school systems ... of the highest standard and ... open, without fees or religious tests, to all children.'<sup>54</sup>

Since then, however, the funding mix has consistently favoured private schools over public schools, as well as shifting from the neediest schools to benefit the better-resourced schools.<sup>55</sup> In 2019, one in three private schools received more public funding per student than public schools with similar student profiles.<sup>56</sup> Since more than 90 per cent of private schools have some form of Christian affiliation, this represents a substantial public subsidy to religious organisations.

In 1977, the highest proportion of Australian students to date – 78.9 per cent – was enrolled in public schools. In 2019, nearly one-third of Australian students attended private schools. Australia's education landscape since the 1960s reflects a similar pattern to other areas of service provision: religious organisations attracted increasing amounts of public money, even as religious adherence declined.

## Conclusions

This chapter has demonstrated that, while Australia's formal political institutions are broadly secular, Australian politics has been substantially shaped by dominant Christian traditions, often in surprising ways. Members of non-Christian religions have taken prominent roles in Australian public life, but their traditions' impacts on the public culture have been smaller overall than that of Christianity. Indigenous ways of knowing, including the spiritual dimensions of sovereignty and land ownership, remain an aspect of the Australian religious landscape that the non-Indigenous population is still attempting to comprehend.

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54 *Commonwealth Schools Commission Act 1973* (Cth), section 13(4)(a).

55 Maddox 2014a, 83–6.

56 Ting, Liu and Scott 2019.



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# Voter behaviour

Shaun Ratcliff

## Key terms/names

agenda setting, cues, ecological fallacy, framing, heuristics, non-response bias, normative, random sampling, rational choice, response rates, sample size, social desirability bias, survey research

Representation is the basis of modern democratic theory. In most mature electoral democracies, it is achieved through regular elections, which provide voters with the opportunity to select representatives whose policy goals align with their own. This chapter explores how citizens vote and some of the key influences on their behaviour.

Research into voter behaviour has been greatly influenced by a shift from normative assumptions about how citizens should behave in democratic society to studying how they act. This highlights a troubling and persistent problem for democratic governance: if citizens in representative democracies are largely not interested in politics and are under informed about basic matters of state, how can they provide any control over public policy through elections or referendums?

Borrowing from social psychology, political science provides an answer to this. While most voters are far from perfectly equipped to analyse political issues, most use limited information to make reasonably sophisticated judgements about political leaders, candidates, parties and salient matters, particularly those relevant to their lived experiences. When voters pool their individual opinions at elections,

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the resulting collective decision is actually likely to be better than an individual decision.

This chapter will explore the political science research on voter behaviour to better understand how representative democracy functions.

What is public opinion?

Public opinion is a concept frequently used by political leaders, journalists and political scientists to describe and understand politics. It can be viewed as the aggregation of the attitudes and preferences of individuals who comprise the public. This term – ‘the public’ – is widely used, but in political science it has a particular meaning. Sociologist Herbert Blumer suggested three criteria. In his framework, the public consists of a group of people who:

- face a common issue
- are divided on how to address it
- are engaged in discussion or debate about the issue.<sup>1</sup>

In this view, publics emerge over particular issues, such as immigration or the rate of taxation. To become a member of a public, an individual must join a discourse on an issue, thinking and reasoning with others. According to Blumer, if a public is not critically engaged with an issue, then that public ‘dissolves’, and uncritical and unengaged public opinion becomes mere ‘public sentiment’.

However, this is not a universally accepted definition. More recently, philosopher and sociologist Jürgen Habermas argued that public opinion is context dependent, anchored to the ‘public sphere’ – the political and social domain in which people operate, which changes over time.<sup>2</sup> It comprises public discussions about politics outside the formal arena of government, such as conversations in a cafe or bar, talkback radio or what is covered in the editorial pages of a newspaper. Changes in the public sphere include who is permitted to participate and the issues and positions that are considered to be socially acceptable. In the past, women, those who didn’t own property and some ethnic and racial groups were not permitted to engage in Australian political debate or vote in elections. Because it consisted only of the opinions of certain groups of men, the public sphere in mid-19th-century Australia, for instance, did not consider it socially acceptable to discuss issues such as LGBTIQ+ rights.

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1 Blumer 1946.

2 Habermas 1989.

*The history of the public opinion as an idea*

Most early theorists and philosophers, including Plato and Machiavelli, were generally dismissive of the political opinions of the common people. They believed most citizens did not have the capacity for rational political judgement. However, some were more positive. Aristotle advocated an early version of the wisdom of the crowd. The modern, mostly more positive, attitude towards public opinion can be traced to the Enlightenment, which saw a growth in literacy, the development of early newspapers and the distribution of political pamphlets. Enlightenment thinkers, including John Locke and Jean-Jacques Rousseau, argued for the existence of normative, inalienable rights for individuals, protected by the state, and for greater citizen participation in government.

Lockean political theory was a significant inspiration for the design of the political system and culture of the USA and other modern representative democracies. Locke argued that humanity was subject to three laws: divine, civil and opinion (or reputation). He regarded the latter as arguably the most important. Poor public opinion could force people to conform to social norms. Despite this, he generally did not consider public opinion to be a suitable influence for governments. Other Enlightenment thinkers had a more positive view. David Hume argued that public support provided government with legitimacy – and was the only thing that could do so. This view is closest to modern normative beliefs about the functioning of democracy.

Modern views of voter behaviour

Despite the early origins of the concept, the study of voter behaviour and public opinion emerged as modern fields of research later, in the 1930s. Key debates included how voters learn, why they believe certain things and prefer particular policy options, how their attitudes match with their behaviours and their influence on government policy decisions.

Much of our understanding of human behaviour comes from the field of social psychology, where studies of public opinion typically employ one or more of four basic concepts: beliefs, values, attitudes and opinions.

- *Belief systems* tend to be thematically and psychologically consistent. They are the assumptions by which we live our lives, comprising our understanding of the world, our attitudes and our opinions.
- *Values* are ideals. They are our understanding of the way things should be. Many researchers distinguish between ‘terminal’ and ‘instrumental’ values. Terminal values are ultimate social and individual goals, like prosperity and freedom. Instrumental values are the constraints on the means used to pursue our goals, such as honesty and loyalty.

- *Attitudes* are the relatively stable and consistent views we hold about people and objects. These are often defined as evaluations combining emotions, beliefs, knowledge and thoughts about something.
- *Opinions* are the expressions of attitudes, sometimes seen as narrower, more specific and more consciously held (as opposed to unconscious attitudes we may have formed without deliberation) than attitudes. The idea that opinions are separate from attitudes is not universal, though.

Do voters hold meaningful political opinions?

Political science research was deeply influenced by the behavioural revolution that occurred during the mid-20th century. Changes in approaches to investigation permitted researchers to measure citizens' preferences and behaviours, raising questions about the capacity of citizens and challenging some of the normative assumptions of representative democracy. Whether voters are competent political agents and can be considered rational actors began to be studied.

Besides social psychology, theories of voter behaviour and public opinion have been heavily influenced by the discipline of economics. *Rational choice* theory has been one of the most consequential of these theories. It is a set of normative standards and empirical models used to understand human decision making. These operate on the assumption that aggregate social behaviour is the result of independent decisions made by individual rational actors. These decisions are informed by a set of defined preferences from among the available alternatives.

Preferences are assumed to be complete and transitive. Individuals with complete preferences can always say which of two alternatives they prefer or that neither is preferred. Transitive preferences are always internally consistent in their order of desirability. If option A is preferred over option B and option B is preferred over option C, then A must always be preferred over C. When preference order is both transitive and complete, it is commonly called a 'rational preference relation', and those who comply with it 'rational agents'. In this framework, the rational agent can take available information, probabilities of events and potential costs and benefits into account when determining preferences and will act consistently in selecting the alternatives that maximise their interests.<sup>3</sup>

Anthony Downs' *An economic theory of democracy* is one of the most influential political science works published after the Second World War.<sup>4</sup> In a Downsian view of electoral democracy, voters are rational utility maximisers. They support the party with policies closest to their own preferences (which are generally expected

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3 For a general discussion on rational choice, see Hindmoor 2006. For specific discussions on rational choice theory as a framework for understanding politics, see McGann 2016 and Dowding 2009.

4 Downs 1957.

to benefit their self-interest). Parties and candidates are also utility maximisers, seeking the private benefits of public office and, therefore, electorally motivated and willing to adjust their policy offerings to match the preferences of the median voter. In doing this, parties provide voters with the greatest utility for their vote and increase their chances of electoral success.

Not all political scientists believe voters are rational actors though. The public's general lack of knowledge about all but the most important political issues is one of the best documented findings in the social science literature,<sup>5</sup> with citizens' limitations as political actors causing some political scientists to question whether they are capable of acting as we might expect and hope, even in the modern era.

American writer and political commentator Walter Lippmann<sup>6</sup> mirrored many earlier views of the public. He argued citizens were unable to behave rationally or think deeply. Similarly, one of the founders of modern public opinion research, Phillip E. Converse,<sup>7</sup> found that, in the 1950s and 1960s, only slim majorities of voters had even a basic understanding of how government worked. Fewer still held informed opinions on even the most salient policy matters, and the preferences they did hold lacked consistency across issues. Citizens' answers to individual survey questions on one issue were largely unrelated to their answers to other questions on different (but related) topics. For instance, a respondent who wanted lower taxes would not always also support less spending. More broadly, very few voters were consistently on the left or right of the political spectrum.

To make matters worse for normative concepts of democracy, citizens were also found by Lazarsfeld, Berelson and Gaudet,<sup>8</sup> Butler and Stokes,<sup>9</sup> and Converse to provide inconsistent answers when asked the same question at different times. A respondent, asked whether they supported higher spending or lower taxes one year, often completely changed their position when asked two years later.

Much of the research from social psychology supports this cynicism about citizen competence. Psychological and experimental research has repeatedly demonstrated the irrationality of individuals<sup>10</sup> and the influence of context on preferences and decision making.<sup>11</sup> Citizens' policy positions are often unstable and inconsistent.<sup>12</sup> Behaviour is frequently influenced by emotion<sup>13</sup> and framing.<sup>14</sup> Voters use evidence incorrectly or prejudicially and are often overly confident about

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5 Converse 1975; Delli Carpini and Keeter 1996.

6 Lippmann 1927; Lippmann 1922.

7 Converse 1964.

8 Lazarsfeld, Berelson and Gaudet 1968 [1948].

9 Butler and Stokes 1973.

10 Redlawsk and Lau 2013.

11 Rabin 1998.

12 Converse 1964.

13 Brader 2012.

14 Kahneman 2003; Kahneman and Tversky 1979; Tversky and Kahneman 1991.



their conclusions,<sup>15</sup> and their acceptance of new evidence is clouded by motivated reasoning.<sup>16</sup>

Reconciling these findings with democratic theory

Concerns about the capacity of citizens to meaningfully participate in electoral democracy are inconsistent with the general assumptions of classical democratic theory, which requires citizens to be informed and attentive for democracy to properly function. These concerns are typically reconciled with the normative ideals of democratic theory through the wisdom of the crowd argument. Aggregate opinion can be much more stable and, as a result, appear more 'rational' than individual opinion.<sup>17</sup> Even large proportions of random error 'cancel out' when aggregated, resulting in reasonably efficient and stable collective choices.

There may also be some problems with the concerns about voter competence raised above. In a number of countries, representative democracy appears to be working relatively well. Lau and Redlawsk<sup>18</sup> estimate that, at the five US presidential elections between 1972 and 1988, approximately 75 per cent of citizens voted the same as they would have if they had been operating with 'full information'. Here, full information is the decision they would make if they had the greatest possible understanding of the choice they were making and the alternatives.

Lippmann and Converse may have been overly pessimistic about voters' political sophistication. It is possible that unrealistic goals were set for the average voter. There were also measurement problems with some of the earlier studies. The period in which Converse studied may also have been one with unusually low levels of ideological difference between the major political parties in the USA (where they conducted their research), making it harder for voters to understand the difference between the parties or to adopt strong positions on many areas of policy.<sup>19</sup>

Gerald Pomper<sup>20</sup> studied the association between party identification and voter preferences on six issues between 1956 and 1968. Consistent with Converse's findings, from 1956 to 1960 the relationship between party identification and preferences was weak or non-existent. However, this relationship strengthened for all six issues between 1960 and 1964. Regardless of starting position, from 1964 Democrats were more likely to be liberal and Republicans conservative in all of these policy areas.

Earlier studies of voters' political preferences also failed to take into account the measurement error inherent in public opinion surveys. Responses to these

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15 Gilovitch 1991.

16 Bartels 2002.

17 Page and Shapiro 1992.

18 Lau and Redlawsk 1997.

19 Nie, Verba and Petrocik 1976, 99, 179–80.

20 Pomper 1972.

surveys can be influenced by external stimulus, which may change the salience of different attitudes at different times,<sup>21</sup> and questions may be unclear or the respondent may become confused or bored, answering incorrectly or carelessly. These problems with survey design can result in greater apparent instability in the political attitudes held by citizens than is actually the case. Most voters hold relatively stable political preferences, but this has a random component that adds noise to survey responses.<sup>22</sup>

The general consensus in the modern political science literature is that most voters hold positions on a wide range of public policy issues that can be measured, with error, which is largely created by imprecise question wording and respondent inattention.<sup>23</sup>

#### In defence of voters

Voters certainly face limitations, but how far do these extend? Voting is cognitively demanding. Most political issues are complex, abstract and remote from citizens' lives, and voters lack the time and resources to properly make informed policy distinctions between parties.

The average citizen is not always capable of making – or willing to invest the resources to make – optimal choices. Rather, we as individuals are often forced to trade off effort and optimisation. It cannot be expected that voters will have a high degree of familiarity with policy details in most domains, nor should it be expected that they will behave equally rationally across all issues.

Although citizens may not be familiar with policy details, they usually exhibit behaviour that is logical, responding to circumstances with 'bounded rationality' to obtain some utility from their vote. 'Bounded rationality' makes different assumptions than economic theories of rationality.<sup>24</sup> Rather than being intimately familiar with policy themselves, citizens learn from their own lived experience and take cues from parties, elites and opinion leaders, who actively promote specific policies to voters, providing cues to their supporters about political matters and the importance of particular issues.<sup>25</sup>

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21 Zaller 1992; Zaller and Feldman 1992.

22 Achen 1975; Feldman 1990.

23 More recently, Converse (2000) clarified his position on this issue, stating that survey item responses are probabilistic over a 'latitude of acceptance', with this probability space varying depending on the political sophistication and interest of the respondent.

24 Kahneman 2003.

25 Gilens and Murakawa 2002; Levendusky 2010; Lupia 2016; Lupia and McCubbins 1998; Popkin 1991.

## How citizens learn

Political and social psychology provide substantial critiques on citizens' capacities to perform their democratic duties, helping us reconcile voters' limitations with the idea that democracies work reasonably well.

Voters do not necessarily need detailed knowledge about politics and policy to fulfil their democratic duty. They can be thought of as 'cognitive misers', who minimise the effort involved in making potentially complex or difficult decisions using shortcuts, learning only as much as they need to and receiving and interpreting signals from elected officials, opinion leaders and other sources.

One way voters make political choices (such as choosing who to vote for) without a substantial investment in information gathering is through the use of *heuristics*, or cognitive shortcuts.<sup>26</sup> These are also used when making non-political decisions.

Individuals are using a heuristic, for instance, when they fix their beliefs more heavily on the first piece of information they receive (the 'anchor') when making a decision. This is known as the anchoring heuristic. An example is the first price mentioned during a negotiation. If a salesperson offers a very high price to start negotiations, this becomes a psychological anchor for the buyer, meaning the counter-offer and final price are more likely to be higher than otherwise.

The representativeness heuristic is another cognitive shortcut. This involves comparing a problem or decision to the most representative mental prototype. When a voter is trying to decide if a politician is trustworthy, they might compare that politician's characteristics to other people they have known in the past. If the politician shares traits with a kind grandfather or harsh teacher, they might be assumed to be gentle and trustworthy or critical and mean. This results in classifications that may or may not be correct, but saves on the effort of seeking additional information for critical analysis.

Party identification can also be thought of as a form of heuristic that guides voter behaviour.<sup>27</sup> This helps to make politics less cognitively demanding for voters. Once citizens decide which party generally represents them, this single piece of information can act as a shortcut guiding how they view issues and events. A policy championed by the party this voter identifies with is more likely to meet with favour than the same policy advocated by a different party. For instance, if the Liberal Party promotes a new policy, voters who identify as Liberal supporters may be more inclined to believe this is a good idea than if the Labor Party had proposed the same policy.

Party identification can also guide how we view events. Bartels showed that voters' statements about objective facts, such as whether unemployment increased or decreased, were heavily influenced by party identification.<sup>28</sup> Under Republican

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26 Kahneman, Slovic and Tversky 1982.

27 Campbell et al. 1960.

28 Bartels 2002.

presidents, Democratic identifiers were more likely to believe the economy was doing poorer than it was and Republicans were likely to believe it was doing better; and the reverse is usually true when a Democrat is in office.

Another common shortcut is the availability heuristic. This involves assessing the probability of an event based upon how easy it is to recall similar cases. When making a decision, you might remember several relevant examples. Since these are easier to remember, you may assume these outcomes are generally more common than harder to recall examples. For example, it might be easy for individuals to remember media coverage of violent crime, but harder to recall car crash fatalities, which are more common but less frequently reported.

The availability heuristic is driven, in part, by the influence of mass media. Newspapers, radio, television and news on the internet provide examples of crime, terrorism, plane crashes and shark attacks out of proportion to their actual incidence compared to other events. This often causes us to overestimate their likelihood. The availability heuristic allows politicians – whose message is amplified by the media – to influence us with cues and gives the media itself the power to help set the agenda.

#### Agenda setting, elite cues and framing

The reason voters use heuristics or other shortcuts – as Lippmann<sup>29</sup> and Zaller<sup>30</sup> identified – is that in large and complex societies they generally have no other choice. Their time and attention is finite, and political and policy issues are complicated. There is too much happening, often at a significant distance from their lived experience, for the average citizen to form a detailed and intimate understanding of every event, policy and personality that makes up modern politics in electoral democracies.

One of the major sources relied upon by voters for political information is the media. Its influence on voter attitudes and decision making has long been recognised. It is important to realise that the information the public receives – and that shapes its opinion – is never a full account of all important facts. Rather, it is a selective view of what is happening, which voters use to try and understand their political environment.<sup>31</sup>

By choosing to report certain stories, the news media and other actors control the flow of information to the public. They cannot necessarily tell people what to believe, but they can impact perceptions about the importance of issues.<sup>32</sup> This process is called *agenda setting*.

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29 Lippmann 1922, 59.

30 Zaller 1992, 6.

31 Graber 2001.

32 Cohen 2001.

The media are not the only group that have influence on public opinion. *Cues* can be taken from parties, elites and opinion leaders, who actively promote specific policies to voters. Individuals use these signals to save time and effort. Rather than attempting to master all the issues that might be important, voters can rely on experts and political elites to help shape their opinions on matters about which they are not well informed.

Political elites are not just politicians but also policy experts and religious leaders, union officials and business executives, environmental campaigners and other interest groups, and journalists. Individuals may also take cues from personal acquaintances if they are seen as being more knowledgeable about a particular issue.<sup>33</sup>

As with heuristics, the use of cues is an imperfect but necessary part of democratic engagement by ordinary citizens. For the vast majority of individuals, participation would be impossible without it. It can be a reasonably sophisticated process. Voters can take into account the source and nature of cues on a particular issue, including how close the position taken by the source of the cue is to the recipient's views on other issues.<sup>34</sup>

Beyond agenda setting and cues, the media and elites – including political campaigns run by parties and candidates – may also use *framing* to influence voters.<sup>35</sup> This occurs when an issue is portrayed a particular way to guide its interpretation. Individuals will react to a choice differently, depending on how it is presented.

Most political issues are heavily framed to persuade voters. In Australia, the decision to call people arriving by boat to seek asylum 'refugees', 'boat people' or 'illegals' is the result of framing. The choice of words and imagery is often deliberate – designed to evoke a particular reaction from the audience. Political actors try and place their cause and message in a positive frame or their opponent's in a negative frame.

#### Aggregating individual preferences: studying voter behaviour

We can study voter behaviour a number of ways: through electoral results (aggregate studies) and using public opinion surveys (individual-level studies). Both have strengths and weaknesses.

#### *Measuring aggregate voter behaviour*

The ultimate expression of public opinion is the votes cast by citizens at elections, referendums and plebiscites, which we can examine to understand what voters

33 Watts and Dodds 2007.

34 Gilens and Murakawa 2002.

35 Tversky and Kahneman 1981.

think about particular issues and how they behaved in different parts of the country.

We can combine election results at the level of legislative districts – the discrete geographic spaces represented in a legislature, such as the Australian parliament – with other information. This can include census data, such as the average age of an electorate. We can combine these data with election results to see how the average age of the electorate was associated with support for different political parties or policy preferences.

However, there are risks associated with exclusively relying on these aggregate election results to study voter behaviour. This risks committing an *ecological fallacy*, a type of error where inferences are made about individuals based on aggregate group-level data. For instance, we may observe that the Liberal–National (Coalition) parties do better in low-income electorates. We may infer that this means that lower income voters support these parties. However, the aggregate relationship between income and voting for the Coalition parties is meaningless if rural electorates tend to have lower average incomes and voters in rural areas are also more conservative, rather than low-income voters themselves necessarily being more likely to support conservative parties. Within individual districts, voters with lower income may actually be more likely to vote for the Labor party. We cannot be sure whether this is the case without individual-level data, including the kind of information collected through public opinion surveys.

#### *Using surveys to understand voter behaviour*

As students and scholars of public opinion, we want to examine the attitudes and behaviours of voters more frequently than every three (or more) years, when elections are held, and to make inferences about the behaviour of individual citizens, not just aggregate-level election results. Generally, electoral returns are not disaggregated by demographics, socio-economic status, issue preferences or other attributes of citizens. We also want to understand attitudes towards issues that elections are not necessarily held on. Quantitative data from random, representative samples of the electorate – public opinion surveys – can provide a snapshot.

Much of our exposure to public opinion surveys (commonly called ‘polls’) is through the ‘horse race’ coverage of politics – who is winning, who is unpopular and how much has changed in recent weeks or months. Survey research can be much more extensive than this and can be used to understand what shapes public opinion (Is it the media, politicians’ messages or culture?). Surveys are useful for understanding citizens’ attitudes towards policies, events and political leaders, and how they might vote at elections and respond to future political decisions. Surveys can also be used to examine the influence of public opinion on political and policy decisions made by leaders.

## The history of public opinion surveys

Prior to the development of survey research, sociologists and political scientists generally studied behaviour and opinions by interviewing people in small groups. Although providing detailed information, this often resulted in samples that were too small and too concentrated in limited geographical areas (such as particular neighbourhoods or workplaces), making it impossible to make generalisations about the broader public. Journalists and magazines often conducted informal straw polls and interviews on the street, but these were more for entertainment than serious research.

Most of the tools on which modern sampling is built have their origins in the 1940s and 1950s. In the USA, Australia and most other representative democracies, populations became more urban (and therefore concentrated), household telephones became more common, mailing lists became more accurate and people became generally easier to reach.

A significant incentive for the development of better public opinion measures was the burgeoning US radio industry in the 1920s and 1930s. Broadcasts were primarily funded by advertisers, who wanted to know the size of audiences when agreeing to pay for air time. Statistical sampling provided this, with random samples of hundreds or thousands of people offering relatively accurate estimates of the general population.

Political surveys followed, providing a way to regularly measure citizens' privately held opinions. This was done by the news media, obtaining measurements of shifting opinion that they could report. Political parties, candidates and leaders also undertook surveys and used the data obtained to guide political decisions.

Early survey research relied on in-person interviews. Home telephones were not yet ubiquitous and were mostly owned by the wealthy. Mail surveys were difficult, as there was often an absence of complete and reliable lists of valid postal addresses. However, face-to-face surveys have many of the same drawbacks as interviews. Regardless, these early efforts at sampling sometimes provided useful data and established the foundations for later efforts.

There are several types of surveys, and methodological decisions can influence the utility of different survey types for different purposes. First, researchers need to decide how they are going to select their sample. The most common method is opt-out, or *random*, sampling, which sits at the centre of modern survey research. It is built around the idea that every individual in the population of interest (e.g. citizens likely to vote in an election) has a known probability of being sampled. Random sampling helps us to secure a representative sample by providing the means to obtain what is intended to be an unbiased selection of the larger population. From address-based, in-home interview sampling to surveys by mail, random digit dialing after the growth of landlines and mobile phones, and online surveys, researchers have placed significant effort into collecting representative samples.

The near-universal acceptance and use of representative, random samples is due to a high profile polling error more than 80 years ago. During the 1936 US presidential election, the then very popular magazine *Literary Digest* ran a mail-in survey that attracted more than two million responses. This is a truly massive sample size (generally a good thing), even by modern standards. Despite this, the magazine incorrectly predicted a landslide victory for Republican candidate Alf Landon over incumbent Democratic President Franklin Roosevelt, who decisively won the election. The reason for the error? The magazine's very biased sample of voters. Subscribers to the *Literary Digest* were predominantly car and telephone owners – an affluent group of voters who were not representative of the wider electorate – and Roosevelt's supporters were under-represented.<sup>36</sup>

The attribute that made the *Literary Digest* sample so large – the huge list of subscribers who mailed in survey responses – also made it more error prone. It used a biased sample. The *Literary Digest* survey is what we call an opt-in survey. This is the other main form of sampling.

The problem with this form of survey is that often the respondents who choose to opt-in are different from the population you are trying to study in important ways that correlate with the outcome you are researching, biasing the results. Smaller surveys conducted by George Gallup, Archibald Crossley and Elmo Roper, with samples comprised of randomly selected voters, more accurately predicted the 1936 election results.<sup>37</sup> Accordingly, opt-in convenience surveys were largely discarded by researchers in favour of random sampling.

In addition to the nature of the sample, there are also different methodologies with which to collect a survey sample. The most common forms of surveys are:

- *In-person* survey: these allow the interviewer to build a personal rapport with respondents and gain more complete answers. This method can also allow for longer and more detailed surveys, and interviewers can use visual aids. However, in-person surveys are much more expensive than other methods and are geographically constrained by the area an interviewer can cover. They also have significant problems with *social desirability bias* – the tendency of respondents to answer questions in a way they believe will be viewed favorably by others, under-reporting potentially undesirable behaviour (e.g. eating junk food, smoking) and over-reporting what might be construed as good behavior (e.g. exercising daily, eating well, working hard). Due to the cost involved, this methodology is not used regularly for surveys in the modern era.
- *Mail survey*: these surveys have the benefit of being affordable, suffer less from social desirability bias, as there is no human interviewer directly involved, and can be longer than phone polls. As a result, they have remained popular for academic surveys. However, as there is no person involved – either on the other

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<sup>36</sup> Squire 1988.

<sup>37</sup> Gosnell 1937.



end of the phone or in the room with the respondent – response rates can be very low.

- *Phone survey*: this is are the most frequently used survey method. Phone surveys are cheaper than in-person interviews. Most general population telephone samples use random digit dialing, with phone numbers sampled from computerised lists of all possible telephone exchanges in the relevant population. These surveys generally provide a high-quality representative sample and are fast and reliable. A national representative sample of a thousand respondents can usually be collected in a few days at limited cost. However, the rapid spread of mobile phones and caller ID has complicated survey research. In addition, phone surveys tend to be quite time-limited, as it is difficult to keep the respondent on the phone for more than a few questions. To reduce costs, some survey research companies have adopted 'robocall' technologies. These use prerecorded questions, with respondents providing answers through the keys on their telephone or through automated voice recognition. This reduces costs and the problem of social desirability bias. There is no interviewer to offend or be judged by – or for the researcher to pay. However, robopolls have high non-response rates and can only be used for shorter interviews, as respondents are more willing to hang up on a machine than a human.
- *Online survey*: these tend to have lower response rates than surveys involving human interviewers. However, they have fewer problems with social desirability bias and tend to be affordable. Originally, they were criticised for not being representative, with their samples skewed towards a young, internet-connected population. However, this has become less of a problem as internet penetration has increased. Additionally, some survey research companies have tried to build representative panels that samples can be drawn from, often providing high-quality results.

## Conclusions

Learning about voter behaviour is the first step to understanding if and how democracy works. For students of electoral democracy, this is important as representation sits at the heart of democratic theory. Research shows that citizens' aggregate preferences influence policy outcomes to varying degrees.<sup>38</sup>

While there are questions about the ability of voters to function as competent political actors, some of the early critiques were found to have been overly pessimistic. It is arguable that many studies set unrealistic expectations of the average voter. Rather, public opinion and the involvement of voters are necessary safeguards of democracy.

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## About the author

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# Young people and politics

Philippa Collin and Jane McCormack

## Key terms/names

active citizenship, citizenship, dutiful citizen, engagement, interest groups, internet, mobilisation, participation, politics, political socialisation, representation, self-actualising citizen, social movement, youth

‘[W]e do not support our schools being turned into parliaments’

‘What we want is more learning in schools and less activism in schools’

Prime minister of Australia, Scott Morrison<sup>1</sup>

Young people’s relationship to democracy is a dynamic one. Over time, how youth, participation and citizenship are defined has changed, reflecting the persistent and changing norms and conventions of Australian society and politics. As suggested by Scott Morrison’s response to the student-led ‘School Strike 4 Climate’, there are both firm and contested ideas about who young citizens are and their role in Australian democracy. These reflect how ‘youth’, as a life stage, is conceptualised, how citizenship is defined, how people develop and express political views and behaviours and create, share and consume political media, what constitutes

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<sup>1</sup> Australian Associated Press 2018.

participation and how people exercise their rights and responsibilities in Australian democracy and shape its ongoing evolution.

This chapter looks at how young people's relationships to politics have changed and diversified over time. It first considers how young people's citizenship and their role in democracy can be conceptualised. The second section looks at young people's status in Australian politics – in formal processes, policy and advocacy. The final section discusses how young people's political interests and participation in democracy are evolving in relation to the constraints and opportunities of Australian democracy.

### Conceptualising young citizens

Like most concepts in social science, 'citizenship' and 'youth' are not 'natural' – actually, they are highly contested! Not only has their meaning changed over time, there are also lively and continuing debates about how we should think about these terms – and therefore who can participate in democracy and how.

#### *Citizenship*

Citizenship is a key term in theories of democracy because it defines who belongs to a particular community – or to a state such as Australia. In this regard, citizenship refers to a legal and administrative status – specifically membership of a political community. Citizens have *rights* – for example, to vote and to help decide how their community or country is governed. Liberal theories of democracy present the exercise of rights as the most important form of political participation; citizens need knowledge and experience to understand and use their rights well. Citizens also have democratic duties and responsibilities. For example, communitarian theories argue that citizenship is fostered through a sense of belonging, which requires that people join communities and associations to learn about and contribute to democracy in ways that benefit the broader group – or 'common good'. This way of thinking about citizenship connects to the idea of 'active citizenship', which is often evoked in youth policy,<sup>2</sup> and suggests that to qualify as citizens young people must demonstrate that they contribute to civic associations.

Throughout history, many people have pointed out that these rights, and opportunities to exercise the responsibilities of citizenship, are not experienced equally by all. For instance, until the 20th century in most democracies, women were citizens but lacked some political and civil rights, such as the right to vote or to own property. So radical theories of democracy – such as *feminism* – argue that citizenship is necessarily exclusionary, producing 'second- or third-class citizens' because some members of political communities are less valued and more

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2 Harris 2012.

marginalised and disadvantaged than others. They point out that citizenship is enacted when people and groups challenge who ‘counts’ as a citizen by undertaking ‘acts’ such as speaking, marching or posting content online to express opinions or to protest an event or issue – thus constituting themselves as members of a public. These different theories of citizenship all affect how young people are perceived in Australian politics.<sup>3</sup>

### Youth

While ‘youth’ can refer to a stage of life somewhere between ‘childhood’ and ‘adulthood’, the term is ambiguous because it is hard to determine when childhood stops or adulthood starts. Historically, psychology and developmental sociology have viewed ‘youth’ as a universal, biological stage through which young people should pass on normal pathways to (full) ‘adult’ citizenship.

However, there is no distinct age at which young people become ‘adult’ or ‘full citizens’ in Australia. Young people can leave formal education at 15 (depending on the jurisdiction) but are not paid ‘adult’ wages until they are 21; they can be held criminally responsible for their acts from the age of 10 and be jailed in adult prisons from 17, and yet, for the purposes of youth support payments, they are generally not considered ‘independent’ until they are 22.<sup>4</sup> While (in certain industries) there is no minimum age at which a young person can gain employment and pay income tax, they are not allowed to vote until they are 18.

Broadly speaking, youth policy defines ‘young people’ as aged 12–25 years, but the ambiguity reflects the fact that the experience of youth is not ‘fixed’ – it is shaped by context, policy and lived experience and in relationship to social institutions, like the family and education and justice systems. Sociologists White and Wyn describe youth as a ‘relational term’ – meaning it is mostly defined in relation to what it is not.<sup>5</sup> Just as young people are ‘not yet adult’, they are largely constructed in mainstream political discourse as not yet (full) citizens. This contributes to the idea that young people are only fully of value ‘in the future’ – and that they need to be monitored and managed towards ‘good citizenship’ in the interests of protecting society’s future.<sup>6</sup> Over time, concerns about whether or not young people will develop into ‘normatively good’ citizens have manifested differently in scholarship and policy but have frequently been anchored to the question of how people acquire political knowledge and behaviours – or *political socialisation*.

In the 1950s, scholars of *political socialisation* were particularly concerned with how children and young people develop political orientations and the way families,

3 See Collin 2015, Furlong 2012, and Marsh, O’Toole and Jones 2007 for further reading.

4 See Department of Human Services 2019.

5 Wyn and White 1997.

6 See White, Wyn and Robards 2017, chapter 11.

schools and existing community and government structures help young people to learn and ‘practise’ civic skills.<sup>7</sup> In the 1960s and 1970s, as young people were increasingly questioning traditional values, creating new cultures and leading or participating in social movements, researchers and policy makers asked questions about the participatory rights of children and young people. This is exemplified in the Convention on the Rights of the Child (1990). The convention has a specific article that lays out children and young people’s ‘right to participation and to be heard in decisions that affect them’ (article 12). Since the 1990s, significant interest in how to realise young people’s right to participate in community and government decision making has arisen. Sometimes this is termed ‘youth development’ – helping young people to grow into good adult citizens. Governments and non-government organisations have also introduced programs and strategies to enable youth participation as ‘active citizens’ – where young people participate in approved ways in adult-managed processes.<sup>8</sup>

Rather than linear progress in the understanding and recognition of young people as political actors, these phases are better thought of in terms of emerging, contrasting and sometimes overlapping concerns, approaches and debates about the nature of youth citizenship and participation. For example, in Australia, since 2000 there has also been an effort to design and deliver ‘civic education’ through schools and other programs; in civil society there has been a burgeoning of organisations, local networks and youth-led movements advocating and developing a wide range of strategies and forms of youth political participation.

#### The status of young people in Australian democracy

Young people’s status in Australian democracy is ambiguous. As described above, a range of laws and different age thresholds govern young people – although only those young people aged 18 and over are ascribed full political rights and can vote and run for office. A number of Australia’s political parties have federal and state ‘youth wings’ that are open to members of various ages. For example, the Young Liberals’ federal branch is currently open to those between 16 and 31,<sup>9</sup> while Australian Young Labor is currently open to those between 14 and 26.<sup>10</sup> Statistics regarding young people’s membership or involvement in party activities are seldom published, however, making accurate assessment of how many young Australians are actively involved in political parties difficult.

What young people can – or should – do has been increasingly ‘governed’ (regulated by policies and laws) since the middle of the 19th century, when

7 See Edwards 2012 for a good summary and discussion.

8 Bell, Vromen and Collin 2008.

9 Young Liberals 2019.

10 Australian Young Labor n.d.



parliaments in Western countries started to legislate in areas such as education (compulsory schooling), justice (laws and institutions for ‘juveniles’) and work (minimum working age).<sup>11</sup>

Increasing governance reflects a ‘deficit’ approach that emphasises what young people are presumed to lack; it also contributes to a focus on the value young people hold as ‘future citizens’ rather than as citizens of the present.<sup>12</sup> Another effect of policy making *for* young people is that particular areas of policy (such as education, mental health, work) are seen as ‘youth issues’, while others (such as tax, transport and climate) are generally not. This is another way in which young people are constructed as ‘trainee citizens’, as is exemplified by ongoing debates about the age at which people should be allowed to vote.

#### Case study: lowering the voting age – the debate

The debate about the minimum voting age is almost as old as the franchise itself. From the 1960s onwards, most established democracies lowered the voting age from 21 to 18, including Australia in 1973. Since then, debate has turned to extending the franchise to those aged 16 and over. Indeed, the voting age has been lowered to 16 (in a variety of circumstances) in Germany, Switzerland, Austria, Brazil, Norway, the Philippines, Scotland, Argentina, Cuba, Ecuador and Nicaragua.<sup>13</sup> Currently, young Australians can enrol to vote at 16 and vote when they turn 18. In 2018, Senator Jordan Steele-John (Australian Greens) introduced a Bill proposing to lower the minimum (non-compulsory) voting age to 16.<sup>14</sup>

The arguments for and against lowering the voting age are wide-ranging and have evolved over the past five decades. Rights-based arguments include: that young people should be allowed opportunities to vote for the governments and members of parliament that make decisions on policy that affects them, and that reducing the franchise to 16 would bring it into line with other legal and administrative thresholds that permit young people to, for example, enlist in the defence forces (at age 16.5), consent to sexual interactions (at 16) and get a driver’s licence (16 in most states).<sup>15</sup> Advocates also argue that lowering the voting age could positively address the marginalisation from mainstream politics that many young people experience<sup>16</sup> by signalling that their views and participation are valued at an institutional level.

Opponents maintain that young people are not mature, knowledgeable or responsible enough. Recently, some have used neuroscience to argue that adolescent

11 White, Wyn and Robards 2017, 266–8.

12 Cohen 1997; Prout 1999.

13 Bessant et al. 2018.

14 *Commonwealth Electoral Amendment (Lowering Voting Age and Increasing Voter Participation) Bill 2018* (Cth).

15 See Bessant et al. 2018; Collin 2018.

16 Collin 2015; Harris 2012.

brains cannot manage the rational and logical processes required for voting. Some suggest that young people's views are already adequately represented in the political system and that there is little evidence to indicate that lowering the voting age will increase participation.<sup>17</sup>

Australia's leading experts in electoral participation maintain that there is simply not enough evidence to determine the effect of lowering the voting age on the political engagement of young people and on Australian democracy more broadly.<sup>18</sup>

Another feature of young people's relationship to democracy in Australia is that youth interests are inconsistently represented at different levels of government. Treatment of these interests has historically depended on the political priorities of the parties in government. Various attempts to engage with young people in policy processes at a federal level have been developed at different times since the 1980s. For example, in 2007, the newly elected Labor government appointed a minister for youth and re-funded the national youth peak body (the Australian Youth Affairs Coalition). The government invested in national research and consultations to create a National Youth Strategy (2010).<sup>19</sup> It also created 'experimental' mechanisms for engaging with young people in agenda setting and policy making, such as the Australian Youth Forum – an online platform to promote discussion by and with young people on policy issues. A federal Office for Youth Affairs has also existed at various times. Its purpose has largely been to research government action on youth issues and to support the planning and co-ordination of policies and services that affect young Australians.<sup>20</sup>

Since 2013, Australian federal governments have supported a National Children's Commissioner, who advocates for the rights and interests of children, and reviews and reports on legislation, policy and practice that affects them. After its election in 2013, the Liberal–National (Coalition) government defunded most federal-level youth policy initiatives, abolished parliamentary representation and closed the Office for Youth.

Variation in how young people are represented in government extends to the states and territories of Australia. Prior to 2013, only some states had dedicated youth offices, government-funded initiatives and/or children's advocates or commissioners to enable young people's participation and ensure their needs were considered across government. As of early 2019, however, all state and territory governments have some form of goal, aim, vision, mission or commitment that recognises the importance of hearing young people's voices; most have developed (or are developing) youth policies or strategies with young people's input; most

17 McAllister 2014; Young Liberals 2018.

18 McAllister 2014.

19 Australian Government 2010.

20 Ewen 1995, 30.

have some form of youth advisory group that feeds into government; and all have children's advocates or commissioners.

In response to the challenges of representation, an active 'youth sector' has emerged in Australia, made up of a range of 'interest groups' – organisations seeking to represent and advocate for the interests of young people and to influence public policy. These include community and non-government organisations of varying sizes, such as large charities, service providers, social movement organisations and associations. There is also a network of national, state and territory peak bodies for youth affairs. Young people are extensively involved in or lead many of them. An important contribution the youth sector has made to youth politics is in the area of participation, by advocating for young people's right to be heard, particularly when it comes to issues and policies that affect them. These organisations consult with young people about relevant issues and advocate for young people's participation in policy and decision making; many provide training and resources to assist communities, organisations and government bodies to better engage young people in their agenda-setting processes and other activities. Popular engagement mechanisms include youth advisory committees, youth executives, in-person and online consultations and forums, and the co-design of relevant initiatives.

#### Engaged and active citizens?

Much research on youth political participation has focused on levels of political knowledge or 'civic literacy', electoral participation and membership of traditional civil society organisations (such as churches and charities). These are 'institutional' measures of participation. Studies using these measures identify increasingly low levels of knowledge, trust, membership and support for traditional political actors (e.g. politicians), institutions (e.g. parties) and 'repertoires' of participation (e.g. voting or joining a political party or union) among young people.<sup>21</sup> For example, 2004 research by the Youth Electoral Study showed that only 50 per cent of surveyed Australian high school students would enrol to vote if it was not compulsory. Some scholars and commentators interpret this as indicating greater apathy and/or poor civics knowledge among young people.

However, other researchers argue that these studies' definitions of 'politics' and 'participation' (e.g. as elections and voting) do not reflect the broader ways young people think about or practise politics. They show that young people engage in a wide range of non-electoral, 'cause-oriented' participatory practices, including signing petitions, buying a particular brand or product because of a political belief, taking part in demonstrations and joining online or local issues-based groups.<sup>22</sup>

21 Collin 2015, 8–9.

22 Harris and Wyn 2009; Martin 2012; Norris 2003; Vromen 2003.

Rather than participating in politics mainly due to a sense of obligation to particular forms of democracy and democratic institutions (e.g. political parties or government), the theory is that young people participate because of *causes* or *issues*, such as violence, climate change or corruption.<sup>23</sup>

#### Case study: youth activism and networked participation

Many young Australians actively participate in social movements, activist organisations and other initiatives in which they learn about and campaign on issues that concern them. In recent decades youth-led issues-based movements have blossomed, using the internet and social media to connect with and mobilise their young members and grow national and global networks for action. For example, the Australian Youth Climate Coalition (AYCC) emerged in the early to mid-2000s as a youth-led organisation founded and governed by young people and based on strong coalitions with other organisations and movements. In contrast with older styles of civic organising, the more than 150,000 AYCC ‘members’ can choose their level of involvement – and self-organise. For example, the AYCC encourages ‘members’ to organise their own actions – online and offline – and runs different campaigns and activities from which members can ‘pick and choose’. They are also unique for running workshops and training aimed at school-age students, as well as networking and building coalitions with aligned causes and communities.

Another youth-led issue-based movement emerged in 2018, when school students from Castlemaine, Victoria, organised with peers to demand that parliamentarians take urgent action on climate change. Inspired by 15-year-old Swedish school student Greta Thunberg, who had regularly gone on strike from school to bring attention to the climate crisis, they coordinated with a group of classmates to go on strike and journey every week to the offices of different members of parliament in their region to stage a similar event. Organised by word of mouth, eight initial school strikes in the Castlemaine region attracted between 20 and 50 students to each event. Following the success of the initial strikes, the AYCC helped the Castlemaine students create a webpage for their movement and develop a campaign strategy, trained them in organising events and, importantly, helped them generate a social media presence to allow a decentralised model that would support students anywhere in Australia to organise and co-ordinate their own school strikes for climate action. An online community grew, and students across Australia began to co-ordinate and organise in their own regions.<sup>24</sup> On 30 November 2018, an estimated 15,000 students temporarily left school to attend rallies in 30 locations around Australia to demand that politicians take immediate action on climate change. This (school) student movement has spawned similar groups and developed informal

<sup>23</sup> Norris 2003.

<sup>24</sup> Susie Burke, emails, 20 and 26 March 2019.

links to other groups and campaigns, such as #FridaysForFuture. On 15 March 2019, 150,000 students in 56 locations around Australia were some of an estimated 2.29 million strikers across 2,699 sites in 135 countries participating in a School Strike for Climate.<sup>25</sup>

Lance Bennett uses ‘dutiful’ and ‘self-actualising’ to describe two ways of thinking about contemporary citizenship.<sup>26</sup> Dutiful citizens are guided by ideologies, mass movements and traditional loyalties to particular parties and the values, processes and institutions that constitute representative government. In contrast, self-actualising citizens respond to personal political concerns and connect informally to issues through family and friendship groups, lifestyle and identity. They value participatory forms of governance where different members of society inform and influence government decision making. Thinking about dutiful and self-actualising citizens helps to move away from debates about whether young people are ‘more’ or ‘less’ politically active now than they have been in the past. While young Australians are less involved in traditional organisations, such as churches, charities and political parties,<sup>27</sup> they do participate in online and local activities run by community groups, organisations and networks and create their own campaigns and actions. A 2018 Mission Australia survey of 28,286 15- to 19-year-olds found that 36.8 per cent participated in volunteer work, 36.4 per cent in arts/cultural/music activities, 27.4 per cent in student leadership, 22.6 per cent in youth groups and 18.8 per cent in religious groups.<sup>28</sup>

The internet is key to changes in how people participate.<sup>29</sup> The extent to which the internet mobilises new political actors or improves engagement is widely debated. It is generally accepted that social life is increasingly mediated by digital technologies and networks. The internet plays an important role in youth political practice as a means for: seeking news, information and opinions on social and political issues; communication and cultural expression; and joining and/or participating in online organisations and interest groups.<sup>30</sup>

Loader, Vromen and Xenos<sup>31</sup> build on the concept of the self-actualising citizen in developing the idea of the ‘networked young citizen’. The term describes how young people now relate to democracy through an explicit emphasis on identity, personalisation, participation and horizontal relations for civic and political engagement, and the role that the internet, and specifically social media, plays. Their research on the role of the internet produces some counterintuitive findings.

25 #FridaysforFuture 2019.

26 Bennett 2007.

27 Martin 2012; Vromen 2003.

28 Carlisle et al. 2018, 30.

29 Collin 2015; Vromen 2011.

30 Loader, Vromen and Xenos 2014; Stanyer 2005; Vromen 2007.

31 Loader, Vromen and Xenos 2014.

For example, while some are concerned about an ‘echo chamber’ effect, recent international comparative research finds that regular review of a social media news-feed can expose young people to incidental information on political issues and activities that they might not otherwise be knowledgeable about or interested in.<sup>32</sup>

While these new understandings of young people’s participation in democracy help to challenge mainstream stereotypes, it is important to remember that young people are not a homogenous group and that these new networks and forms of participation are not accessible to all young people. Digital media do not necessarily equalise participation opportunities; quality of use and access – and the ways people participate online – can be affected by factors such as gender, level of education and socio-economic and cultural backgrounds.<sup>33</sup> While some organisations and institutions enhance participation via the internet, generally speaking, the barriers to participation that exist offline persist online.<sup>34</sup> In Australia, governments at all levels are only just beginning to adopt online strategies to engage meaningfully with citizens (of any age).<sup>35</sup>

Moreover, the discourse of the self-actualising citizen may amplify the adoption of a ‘self-reflexive experience of inequality’<sup>36</sup> – whereby young people assume personal responsibility for addressing structural or global problems such as housing unaffordability or climate change, which they are unable to respond to alone. Henrik Bang has warned that while ‘everyday’ political practices – such as ethical consumerism or issues-based social media advocacy – can be empowering for young people, they are also associated with less direct engagement between citizens and policy makers.<sup>37</sup> This is a process he calls ‘de-coupling’ – where the politics of everyday practices are removed from the politics of formal institutions and actors. Another concern is that alongside discourses of ‘active’ self-actualising and networked citizenship run equally powerful discourses that construct young people as apathetic or antisocial.

A focus on understanding why people choose not to engage in institutional forms of political participation in new scholarship has helped to show that disengagement can be a conscious response to experiences of exclusion, loss of trust or desperation with the ‘system’.<sup>38</sup> Anita Harris argues that central to contemporary globalisation and neoliberalism are ideas of self-invention, consumption and engagement in mainstream political and civic activities that are at the heart of the discourse of ‘active citizenship’; young people are accordingly constructed as ‘failed citizens’ if they are unable to overcome hardship or exclusion or comply

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32 Xenos, Vromen and Loader 2014 .

33 boyd 2014; Mossberger, Tolbert and McNeal 2008; Vromen 2007; Xenos, Vromen and Loader 2014.

34 Banaji and Buckingham 2013.

35 Collin 2015.

36 Threadgold 2011.

37 Bang 2005.

38 Edwards 2009; Farthing 2010.

with normative expectations of a neoliberal society.<sup>39</sup> Acts that directly challenge the power of adults, institutions and the nation-state are rendered invisible or cast as antisocial or anti-democratic (e.g. civil disruption, hacking websites or wearing religious dress).<sup>40</sup> This extends to unemployed or minority young people (such as those from Indigenous or migrant backgrounds) whose daily and cultural practices may confront the status quo – and who are the main targets of ‘youth engagement’ policies.

Young people as a group are frequently derided by political elites as not yet worthy of political voice and agency. They also witness negative views on politics expressed in the media and by the adults around them. The political parties rarely address young people on their own terms, about their concerns and with deep commitment to addressing the complex issues society faces. In light of large youth mobilisations such as #SchoolStrike4Climate and the associated youth climate movement, it is difficult to maintain that Australian young people are disengaged from politics – even if they are excluded from formal processes of government. Rather, declines in institutional acts may be due to the emergence of new opportunities for participation through activist and issue-based networks.

While these loose networks mostly exclude the state and its representatives, the youth climate action movement highlights how youth movements arise out of informal coalitions and partnerships between businesses, voluntary organisations and public institutions (such as schools). School students challenge the authority of the state by calling on their peers, communities and other actors such as celebrities and big businesses to do more. But young people also engage with governments through a variety of youth participation mechanisms, voting, advocacy and campaigning.<sup>41</sup> As such, young people may not be acting against or turning away from government and other formal institutions of democracy but looking beyond them to shape the kind of society they want to live in. Importantly, this does not mean that young people see democracy as irrelevant – many young people acutely feel the role of government in their everyday lives.<sup>42</sup> Young people may not be loyal to institutions and processes of democracy, but they do have a sense of being both marginalised and controlled by the state, which demonstrates that the state still plays a significant role in shaping young people’s views of politics and participation.

## Conclusions

Young people reflect the anxieties and hopes of Australian democracy. Youth is not a fixed or natural category but one that is fluid and changing – produced by the

39 Harris 2012, 149.

40 Bessant, Farthing and Watts 2017, chapter 8.

41 Collin 2015.

42 Marsh, O’Toole and Jones 2007.



way young people are constructed in policy, social structures and different contexts. As such, young people occupy an ambiguous place in Australian democracy. Young people in Australia enrol to vote and participate in elections in high numbers. However, they are more likely to value and engage in non-electoral and non-institutional forms of political participation – especially local, individualised collective action (such as signing a petition or joining a march) and loose, cause-oriented networks that campaign on particular issues. In this regard, the views and behaviours of young people reflect generational shifts in the values and norms underpinning contemporary democracy – signalling exciting new ways forward.

However, young people remain a lightning rod for studies, explanations and strategies addressing perceived declines in support and engagement with traditional political institutions and elites. As such, the dominant approach is to focus attention on what can be done to ‘engage young people’ in existing democracy or to tweak political institutions, processes and cultures in order to respond to young people’s preferences. Rather less common is the suggestion that young people’s ideas and preferences could result in improvements in democracy – a more participatory, accountable, responsive and creative democracy capable of dealing with the complex policy problems of our time.

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# Policy making



# Making public policy

John R. Butcher and Trish Mercer

## Key terms/names

Australian policy cycle, evidence-based policy, implementation failure, policy analysis, policy design, policy evaluation, policy implementation, policy making, policy process, policy theory, policy value chain

It is commonly believed that Australians are uninterested in politics. Whatever the truth of this proposition, voters are generally interested in government policies that they believe will affect them, although the manner in which policy is made remains opaque for many.

We argue that public indifference to how policy is made is problematic. Policy making affects the life of every person residing in Australia; it shapes the social, economic and physical environments in which we act out our lives. The policy process itself can also have repercussions for society and communities, particularly when community opinion about policy options is divided. An example is the emotionally charged public debate leading to the passage of legislation allowing for marriage equality in Australia.<sup>1</sup>

Policy making is, in part, an exercise in rational problem solving. It is also an intensely *political* process and requires the judicious consideration and balancing of complex issues, including public opinion, competing interests, social relations and

Butcher, John R., and Trish Mercer (2019). Making public policy. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Neilsen 2012.

the distribution of power within a society. A recent example is the South Australian Murray–Darling Basin Royal Commission, which found that policy governing the management of water resources was largely driven by political considerations, ‘not science’.<sup>2</sup>

For the most part, policies begin as statements of values and intent. Policies often have an ideological foundation, and are frequently portrayed as occupying part of a spectrum ranging from left to right. For example, governments or parties of the right or centre-right might be characterised as favouring market forces over government intervention, individual rights over collective rights and unilateralism over multilateralism. Governments of the left are typically portrayed as favouring government intervention in social and economic affairs, emphasising collective rights and preferring multilateral approaches to problem solving.

Such characterisations are, of course, simplistic. Governments of the right sometimes resort to intrusive uses of state power despite the value placed on individual sovereignty, and governments of the left sometimes resort to market mechanisms to address distributional inefficiencies.

This chapter aims to help students to understand:

- what policy is
- how policy happens
- the principal theoretical constructions of the policy process
- key approaches to understanding the policy process
- the contestable nature of public policy
- the importance of evidence-based policy
- the craft of policy making
- the importance of policy analysis and policy instruments
- the task of policy implementation
- the implications of policy failure.

What is ‘policy’?

This chapter is primarily concerned with formal expressions of government – or public – policy:

- as a set of values and convictions
- as operational rules designed to comply with legal requirements
- as embodied in law in the form of primary legislation or regulation.

In each case, the formal expression of policy gives form and consequence to policy intent.

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2 Murray–Darling Basin Royal Commission 2019, 63.

Almost every aspect of our lives is affected by policy; policy affects our birth, the manner in which we are raised and educated, our access to health care, the quality of our physical environment, how we conduct ourselves, whom we might marry, our access to employment, our rights at work, our access to housing, how we raise our children and even the quality of our deaths and what we are able to pass on to the generations succeeding us.

In broad terms, policy can be said to represent *preferred* responses to problems. For any given problem there might be a number of available responses. For example, the statement ‘anyone who attempts to travel illegally by boat to Australia will be turned back to their country of departure’ is a declaration of policy. It sets out a preferred response under defined circumstances. To the extent that such a statement sets out a preferred response, it also precludes other potential responses.

Policy provides a framework for what can and ought to occur in prescribed situations. However, policy is also malleable and is subject to interpretation and adjustment as circumstances change. Changing expectations, attitudes, beliefs, values and behaviours often lead, eventually, to changes in government policy. Laws allowing same-sex marriage, assisted dying or the recreational use of cannabis represent policy responses to cultural changes. Similarly, technological change and environmental changes – think of digital technology, automation or climate change – have fuelled a demand for adaptive policy responses (as well as entrenching resistance to change in some sections of the polity). Likewise, changes in the economy and in our systems for production have driven adaptive changes in policies pertaining to industry, consumer law, employment, education and finance (among others).

How does policy happen?

Public policy can be a messy business. The 19th-century American poet, John Godfrey Saxe, is reported to have written ‘Laws, like sausages, cease to inspire respect in proportion as we know how they are made.’<sup>3</sup>

Public policy is an expression of political intent and a framework for action. Political parties or groupings, in and out of government, will have a set of policies – a policy platform – covering a broad and diverse range of matters. Ideally, policy platforms are internally consistent and represent a coherent narrative for governance. This is not always the case, and the highly contested nature of public policy sometimes means that governing parties bring contradictory positions to the business of government.

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3 Citing famous quotes can be messy too; a similar remark is frequently misattributed to the 19th-century German statesman, Otto von Bismarck.

For a problem to be considered deserving of a policy response – having what the influential political scientist John Kingdon<sup>4</sup> refers to as ‘policy salience’ – there first needs to be:

- broad agreement that a problem exists
- a broadly shared understanding about the nature of the problem
- a broad acceptance of available solutions.

Moreover, propositions about the existence and nature of problems, not to mention the nature of possible solutions, need to be tested in a variety of forums: for example, within the broader community and the electorate; within communities of interest, including geographical regions, industry sectors and civil society; within professional ‘epistemic’ communities of subject area specialists; and within political parties themselves.

The existence and importance of ‘problems’ is often highly contested, both in the community at large and within political parties. Even where there is broad agreement about problems, ‘solutions’ are often controversial. There are many reasons why it is difficult to reach a majority view about the nature of policy problems and preferred solutions. Different actors and stakeholders bring different things to the table and their perspectives are shaped by their lived experience, education, qualifications, attachment to particular interests, attachment to community, ideology, religious beliefs and personal convictions.

Policy makers also need to be attuned to perceptions of ‘winners and losers’. In other words, who benefits from the policy and who perceives themselves to be adversely affected by the policy? They also need to be aware of the potential for ‘interests’ (e.g. civil society organisations, industry groupings, communities) to mobilise for or against policy proposals. Taking all of these factors into account, it is easy to see why it can be so difficult to reach agreement about problems and solutions.

#### Theoretical perspectives

In his book *Analyzing public policy*, Peter John<sup>5</sup> outlines the principal approaches for understanding the policy-making process:

- *Institutional approaches*, which take the view that that political organisations – such as parliaments, legal systems and bureaucracies – shape public decisions and policy outcomes.<sup>6</sup>
- *Groups and network approaches*, which claim that associations and informal relationships, both within and outside political institutions, shape decisions and outcomes. These approaches not only consider the effects on policy of unique

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4 Kingdon 1995.

5 John 2012, 12.

6 Linder and Peters 1990; van Heffen and Klok 2000.



relationships between groups and entities, they also embrace the idea that networks of relationships affect policy outputs and outcomes.<sup>7</sup>

- *Exogenous approaches*, which assert that factors external to the political system determine the decisions of public actors and affect policy outputs and outcomes.<sup>8</sup>
- *Rational actor approaches*, which claim that the preferences and bargaining of actors explain decisions and outcomes. This approach is often called 'rational choice'.<sup>9</sup>
- *Ideas-based approaches*, which hinge on a view that ideas about solutions to policy problems have a life of their own, and that ideas circulate and gain influence independently in the policy process.<sup>10</sup>

Theoretical perspectives such as these are useful in helping us to understand the policy-making process as a social, cultural, historical and political phenomenon. Each allows us to consider some facet of policy making and to understand the nature of the environment in which policy occurs.

While each of these approaches serves a particular intellectual purpose and reflects particular 'truths' about how policy comes to be, none tells the whole story. Nor are they necessarily mutually exclusive (e.g. many institutional accounts also rely heavily on rational actor thinking).

The reality is that making public policy is a complex social behaviour and any given policy exhibits the influences of multiple institutions, groups and networks, exogenous factors, preferences and ideas generated within epistemic communities.

#### A marketplace of ideas

Public policy might best be described as a marketplace of ideas and prescriptions for the broad and diverse array of matters that need to be actively governed in order for human society to function. It involves making difficult choices and negotiating multiple trade-offs between competing options. Moreover, this is a highly contestable marketplace, especially in liberal democratic societies like Australia's.

Policy practitioners need to be mindful of the ideological leanings and philosophical underpinnings of governing parties. It is also important for them to understand the policy leanings of non-governing opposition and minor parties in order to anticipate possible resistance to policy proposals and advise government about policy compromises that might be broadly acceptable to legislatures.

Although Australia's polity is often portrayed as a 'two-party system', our parliaments are generally made up of representatives from multiple parties as well as independents who have no formal party affiliation. And although electoral

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7 Dowding 1995; Howlett, Mukherjee and Koppenjan 2017; Sabatier 2013.

8 Howlett 2009; Howlett and Cashore 2009.

9 Hall and Taylor 1996; Hill 2014.

10 Braun and Busch 1999; John 2003.

contests in all Australian jurisdictions usually involve competition between two major parties – in most cases, the Australian Labor Party and the Liberal Party of Australia (an exception being Queensland, where the Liberal and National parties merged in 2008) – Australian parliaments are usually dominated by three, and sometimes four, established political parties.

Even non-governing parties and members of parliament – including minor parties, ‘micro parties’ and independents – can exert influence on policy, especially when governments do not enjoy a numerical majority in both the upper and lower parliamentary chambers (the exceptions being Queensland, the Australian Capital Territory and the Northern Territory, which are ‘unicameral’, meaning they have only one legislative chamber).

A strong indication of the policy predispositions of Australia’s major political parties can be found in their platform statements:

- Australian Labor Party: ‘Labor members continue to work towards a goal of better services, greater opportunity and a fair go for all Australians.’
- Liberal Party of Australia: ‘In short, we simply believe in individual freedom and free enterprise.’
- The National Party: ‘The Nationals are dedicated to delivering future security, opportunity and prosperity for all regional Australians.’
- The Australian Greens: ‘Peace and Non Violence, Grassroots Democracy, Social and Economic Justice, Ecological Sustainability.’
- Pauline Hanson’s One Nation: ‘To bring about the necessary changes for fair and equal treatment of all Australians within a system of government recognising, and acting upon, a need for Australia to truly be one nation.’

It must be admitted that when in power governments do not always adhere faithfully to the ideological positions they espoused when in opposition. Governments are usually obliged to take a pragmatic view and work within constraints imposed by the political, social and economic environment in which they are situated.

#### A contest of interests

Public policy is also the concern of particular interests in society, and it can be said that some policy settings can become captive to particular interests.

Policy is often vigorously contested *within* political parties, a prime example being the internal debate within the federal Liberal Party around the question of climate change and strategies to reduce carbon emissions; within the federal Labor Party one finds sometimes rancorous debate about the treatment of asylum seekers.

Policy proposals from government might also be challenged by a variety of interests, including industry sectors (e.g. the Minerals Council of Australia), professional groupings (e.g. the Australian Medical Association), trade unions (e.g. the Construction, Forestry, Maritime, Mining and Energy Union or CFMEU), civil

society organisations (e.g. the Australian Council of Social Service) or consumer lobbies (e.g. CHOICE). These interests represent stakeholders that stand to be affected in some way by government policy. In general, policy makers seek to consult with affected interest groups (usually through their representative organisations) in the formulation and implementation of policy. Politically powerful interests can wield significant – and sometimes disproportionate – influence. Australian examples include the first Rudd Labor government's attempt to introduce a Minerals Resource Rent Tax and the Gillard Labor government's national gambling reforms – these measures were staunchly resisted by industry interests and subsequently wound back.

An evidentiary basis?

In an ideal world, policy responses would have some kind of evidential basis. This might mean a combination of empirical research, statistical analysis, comparative policy studies, public consultation, evaluation studies or other forms of evidence that can be made available for independent scrutiny.<sup>11</sup> However, ours is not an ideal world, and the evidence base for many public policy choices is often selective, sometimes even to the point where decision makers find themselves accused of 'policy-based evidence making' – a pejorative converse of the term evidence-based policy making.

'Policy-based evidence making' means working backwards from a predefined policy position with the aim of finding evidence that supports decisions that have already been made.<sup>12</sup> It is possible that the growing trend of governments engaging private consultancy firms to produce commissioned research as an input into policy development has contributed to the perception that evidence is often crafted to fit policy preferences.<sup>13</sup> It is also not unknown for special interests or lobby groups to produce commissioned research (of varying quality) in support of their advocacy for policy change.

Policy making is subject to *bounded rationality* – meaning that the decisions of policy makers are constrained by a variety of factors, such as the tractability of the problem at hand, the availability of information and the time frame within which decisions must be made. There will be times when the 'evidence' either fails to support, or directly contradicts, the preferred policy positions of governments, and it is not unknown for contradictory evidence to be suppressed in order to 'protect' policy settings that are based more in ideology or moral conviction than in any objective appraisal of the circumstances.

Finally, if evidence is to have an impact on policy governance and management, systems that are capable of incorporating new information into decision making are

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11 Davies and Nutley 2000; Pawson 2006.

12 Marmot 2004; Sanderson 2002.

13 Howlett and Migone 2013.

required. This is a perennial problem for public sector organisations, which often fail to use evaluative data generated in the course of delivering public policy to make adjustments to policy settings and/or to the service delivery architecture.<sup>14</sup>

#### Practical policy formulation

It is government's role to set policy objectives, and it is the duty of the public service to advise government about the technical, political and economic feasibility of those policy objectives, including any risks that might arise in their implementation. Having 'advised' government, the public service is obliged to give effect to government policy by developing an implementation strategy (in consultation with the government), including formulating a budget, identifying relevant internal and external capability and undertaking appropriate consultations with affected stakeholders.

It is also the responsibility of the public service to manage any risks arising in the implementation and operational phases. Policy implementation can be subject to a wide variety of constraints, such as short time frames, availability of resources, technical practicability, a lack of appropriate legal authority (an example being the Gillard government's 'Malaysia solution', which aimed to develop a regional strategy to redirect boat arrivals in Australia), inability to pass enabling legislation in parliaments (an example is the Turnbull Liberal–National Coalition government's withdrawal of proposed corporate tax cuts legislation in 2018) and community/stakeholder resistance. The public service often bears the brunt of any fallout associated with ineffectual or misguided policy formulations (such as the Rudd government's GROCERYchoice and FuelWatch initiatives).

In Australia, public servants typically acquire their policy skills 'on the job' in the form of 'craft knowledge'.<sup>15</sup> Indeed, it is unusual for Australian public servants – unlike their North American counterparts – to enter the public service with formal training in public administration, public policy or political science. Although increasing numbers of public servants now undertake postgraduate qualifications in disciplines related to public policy, there remains a degree of scepticism among public servants about the relevance of academic learning to the 'craft' of public policy making.<sup>16</sup>

Policy practitioners who seek to learn about the policy process will discover an extensive theoretical literature, aimed primarily at academics, that is not easily translatable to the real world situations confronting them.<sup>17</sup> This literature is also

14 Banks 2018; Stewart and Jarvie 2015.

15 Adams, Colebatch and Walker 2015, 104; Rhodes 2016, 638.

16 See Katsonis 2019.

17 Cairney 2015, 23; Maddison and Denniss 2009, 82.

characterised by vigorous – and often acrimonious – debate about the limitations of certain models.

Until the late 1950s, policy making was predominantly portrayed as a process of rational analysis culminating in a value-maximising decision. However, American political scientist Charles Lindblom (1917–2018) regarded the rational policy process as an unattainable ideal and proposed an alternative model, incrementalism, which focused less on abstract policy ideals and placed greater emphasis on solving concrete problems.<sup>18</sup> Often described as ‘muddling through’, incrementalism describes an iterative process of building on past policies and reaching broadly agreed positions among diverse stakeholders.<sup>19</sup> Incrementalism offers a plausible account of the policy-making process. In particular, Lindblom’s emphasis on ‘trial and error’ would resonate with many contemporary public servants.<sup>20</sup>

#### The ‘Australian policy cycle’

Originally developed 20 years ago specifically for an Australian practitioner audience, the ‘Australian policy cycle’ is an enduring – if somewhat idealistic – model of the policy development process. The model is a signature feature of *The Australian policy handbook*, first published in 1998. Published in its 6th edition in 2018 and billed as a ‘practical guide to the policy making process’, the handbook has been described as a ‘popular “go to” policy survival manual for public servants’.<sup>21</sup>

Whereas theoretical models of the policy process seek explanations through investigations of institutional, political, organisational and cultural factors that shape the policy environment, the ‘Australian policy cycle’ is more of a ‘how to’ guide and presents policy making as a sequence of practical actions. It is intended as ‘a pragmatic guide for the bewildered’; the handbook’s authors assert that ‘good policy should include the basic elements of the cycle’.<sup>22</sup> The strength of the model is its practical approach, which captures the entirety of policy development and implementation, although it does not supply causal explanations of policy.

A policy cycle approach can help public servants develop a policy and guide it through the institutions of government. The policy cycle starts with a problem, seeks evidence, tests proposals and puts recommendations before Cabinet. Its outcomes are subject to evaluation and the cycle begins again. The policy cycle offers a modest and flexible framework for policy makers.<sup>23</sup>

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18 Lindblom 2018.

19 Cairney 2015, 17.

20 Cairney 2015, 31.

21 Althaus, Bridgman and Davis 2018.

22 Althaus, Bridgman and Davis 2018, 45.

23 Bridgman and Davis 2003, 102.

The policy cycle model has been criticised for suggesting a far more linear and logical progression of activities than would ever be observed in practice.<sup>24</sup> Critics also point out that the model does not accurately capture the lived experience of policy professionals.<sup>25</sup> The *Australian policy handbook*'s authors, Althaus, Bridgman and Davis, have engaged openly with such critics and have responded to their criticisms in the following terms: 'The policy cycle does not assert that policy making is rational, occurs outside politics, or proceeds as a logical sequence rather than as a contest of ideas and interests.'<sup>26</sup>

In simple terms, the policy cycle entails eight logically sequenced steps:

1. identify issues
2. analyse policy options
3. select policy instruments
4. consult affected parties
5. co-ordinate with stakeholders
6. decide preferred strategy
7. implement policy
8. evaluate success/failure.

Notably, the policy cycle offers little guidance to the aspiring policy practitioner about the technical feasibility and integrity of the policy development and implementation phases. In this regard, we might wish to consider the 'policy value chain' (presented in Figure 1).

Based upon a concept developed by Michael Porter,<sup>27</sup> value chain analysis takes account of the primary activities that need to be undertaken to produce value for customers, and the supporting activities and systems necessary for primary activities to occur. Porter's model was developed to guide the commercial decision making of enterprises; however, it can be recast as a *policy value chain* that can be used to help policy practitioners understand the activities that need to be undertaken sequentially to shepherd a policy from conception through to implementation, as well as the organisational capabilities or functions required to support those activities. In the policy value chain, primary activities are analogous to the steps set out in the 'Australian policy cycle'. Supporting activities encompass the following essential organisational and management capabilities and assets:

- organisational infrastructure (including research capability and knowledge management systems)

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24 Howlett, McConnell and Perl 2017; Maddison and Denniss 2013, 87–89; Scott and Baehler 2010, 29.

25 Adams, Colebatch and Walker 2015, 108; Colebatch 2006, 26; Gill and Colebatch 2006, 261–2; Head and Crowley 2015, 4.

26 Althaus, Bridgman and Davis 2015, 112.

27 Porter 1985.

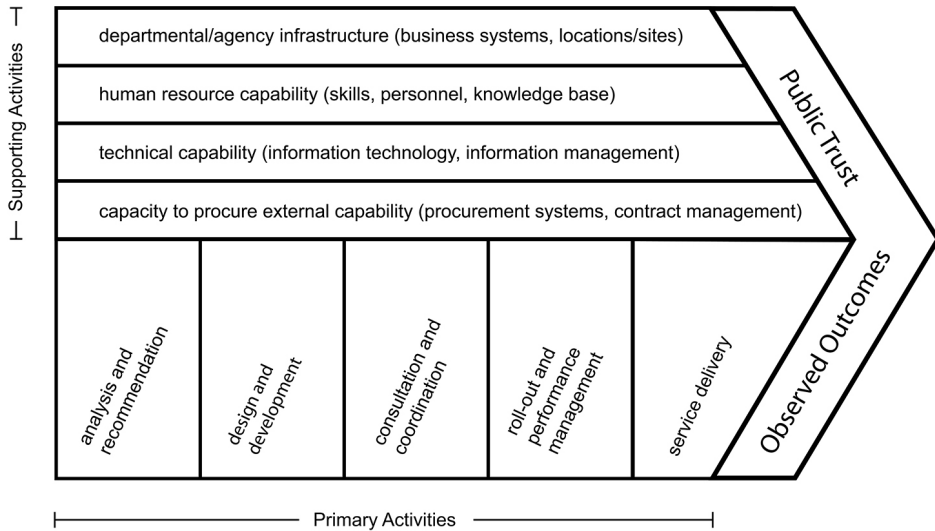


Figure 1 The policy value chain. Source: adapted from Porter 1985.

- human resources (capacity to assign people with relevant knowledge and skills to a task and support them in that task)
- technical capability (including information technology, communications and business platforms)
- capacity to procure external capability (including the ability to recruit people with relevant skills or to engage consultants with relevant expertise).

Where Porter's original model posits *margins* (profit) as the primary value produced by the deployment of capability to support the creation of value, in the policy value chain we might substitute *outcomes* and *public* (or stakeholder) *trust* as the primary value created by public policy. The public value of policy is sometimes overlooked by policy theorists – who focus instead on the character of political or power relations culminating in a particular policy – and by those analysts who look only at the 'craft' aspects of the policy process, while being agnostic about the impact of policy on the public good. Our adaptation of Porter's value chain model expressly invites the policy maker to keep public value creation 'front of mind'.

#### Cross-portfolio policy co-ordination

Policy generated in one ministry or portfolio can have impacts on policy in other ministries, portfolios and agencies. Similarly, policies originating in one jurisdiction can have consequential implications for intergovernmental relations, including between national (federal) and subnational (state, territory and local) governments

(one example being the impact of changes in revenue or spending decisions by the Commonwealth government upon state/territory governments) and between nations in respect of multilateral or bilateral agreements (examples being trade agreements or United Nations conventions).

In Australia, *central agencies* of government – Departments of Prime Minister and Cabinet or Premier and Cabinet/Chief Minister – perform an essential policy co-ordination role. It falls to these agencies to review policy and budget proposals emanating from ministers and their departments and to seek comment from other ministries and agencies in order to identify any unintended consequences that might arise. Once comments have been compiled from affected agencies – including other central agencies, such as Departments of Treasury and Finance as well as agencies responsible for government revenue – a briefing, together with recommendations, will be prepared for the consideration of Cabinet. Vetting of this nature often requires specialist knowledge of particular policy domains and of the statutory basis for government programs and services. It also depends less on political theory and more on an appreciation of the practical and pragmatic dimensions of public policy.

#### Policy analysis

The aphorism ‘the best is the enemy of the good’, commonly attributed to the French Enlightenment writer and philosopher Voltaire (1694–1778), neatly encapsulates a key challenge of public policy. At some level, all policy decisions represent compromises between different interests and involve considerations about political acceptability as well as economic and technical feasibility. To quote the 19th-century German statesman Otto von Bismarck, ‘politics is the art of the possible’ – likewise, policy is the art of the achievable.

*Policy analysis* is an important part of the ‘craft’ of policy making. The task of the analyst is to understand the implications of policy decisions in terms of their impact on the policy problems being addressed; any unintended consequences for government or the community; and their legal, economic and technical soundness. Policy analysis is essential for the provision of *policy assurance* and enables the analyst to provide answers to the following key questions:

- Is the policy well targeted?
- Is the policy delivery architecture well designed?
- How will performance be measured?
- How will we know if the policy is working?
- If the policy is not working, what corrective action is available?

In order to make reliable pragmatic judgements about such matters, it is important for the analyst to give close consideration to a wide range of factors. The kinds of questions the astute policy analyst might ask include:



- Is the policy framed within a particular political or philosophical perspective, and is it consistent with the values and policy platform of the governing party or parties?
- Is the policy genuinely directed towards solving a problem in public policy, or does it primarily seek to solve a 'political' problem by creating the impression of action while having little tangible effect?
- Have similar policies been pursued in other jurisdictions and to what effect? How might past experience inform policy implementation?
- What are the competing options to achieve the policy aims, and how do they compare? Does the policy require enabling legislation? What policy instruments or tools are available to give effect to the policy? What are the expected/hoped for impacts of the policy, and how might these be reliably measured and reported?
- Which groups or communities of interest – including classes of workers, trade unions, professional associations, advocacy organisations, industry groupings, communities and/or geographical regions and expected beneficiaries – stand to be affected by the policy and in what manner,?
- Does the infrastructure exist to give effect to the policy? Is there a functioning market framework within which the policy might be delivered? What skills base is necessary to deliver the policy? Is an appropriately skilled workforce available? What capacity exists within the public and non-state sectors to give effect to the policy?
- What will policy implementation cost? Is it affordable? Will delivery be selectively targeted, means-tested or otherwise 'rationed'? Is it possible to offset expenditure through some form of cost recovery, such as user fees? What are the principal cost drivers in the policy space?
- How will the policy be delivered and governed? What systems or frameworks need to be established to provide assurance to government that policy implementation and delivery will occur within prescribed timeframes and budgets? What systems or frameworks are available to ensure that the policy is performing in the expected manner?
- Has provision been made for periodic evaluations of the effectiveness of the policy and/or the operational arrangements established to give effect to the policy, and is there a capacity to make necessary adjustments to the policy and/or management structures should evaluation findings so indicate?

### Policy instruments

Policy instruments enable the application of policy decisions in practice and can be grouped into the following major categories:

1. money (spending and taxing powers)
2. law (including regulation)

3. government action (e.g. delivering services)
4. advocacy (e.g. educating, persuading)
5. networking (e.g. cultivating and using relationships to influence behaviour)
6. narratives (e.g. using storytelling and communication – including public advertising)
7. behavioural economics (e.g. using economic incentives to induce behaviour change, or ‘nudging’ as it has come to be known).<sup>28</sup>

It should be noted that in the real world these categories often overlap and a mix of instruments is generally required. For instance, governments might elect to use a form of direct service delivery (government action) to achieve policy aims; the delivery of services requires statutory authority (law), is funded by government appropriations (money) and employs ‘nudge’ strategies (behavioural economics), advertising (narratives) and public education (advocacy) to achieve the government’s policy aims.

Government policies aimed at reducing the harms from the use of tobacco products provide a good example; they employ all of the instruments named above:

1. Money: the collection of excise tax on cigarette sales to provide a source of funds for medical research and for non-government organisations involved in anti-smoking programs.
2. Legislation/regulation: setting age restrictions on the purchase of tobacco products, banning smoking in public places and restricting the sale, advertising, distribution and packaging of tobacco products.
3. Government action: funding the delivery of preventative health services aimed at assisting smokers to quit.
4. Advocacy: there have been multiple education campaigns on the health risks associated with tobacco and how to quit.
5. Networking: successive governments have entered into partnerships with representative bodies, such as the Australian Medical Association, and non-government organisations advocating smoking reduction.
6. Narratives: anti-smoking campaigns utilising various media and featuring testimonials by former smokers and/or portraying the health and other impacts of smoking on real people.
7. Behavioural economics: levying excise taxes to increase the purchase price of tobacco products and/or offering financial incentives to quit smoking.

It is worth noting that the choice of policy instrument is all too often a function of familiarity, as opposed to optimal fitness for purpose (in other words, policy makers stick to what they know). Other factors influencing the choice of instruments include:

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28 Althaus, Bridgman and Davis 2018.

- the characteristics of the policy area in question (e.g. some policy areas might have a long history of recourse to particular models of implementation, and this predisposes policy actors in those areas to prefer those models)
- available resources (e.g. some policy instruments might entail significantly higher establishment and running costs than others, or they might require skills or technologies that are in short supply, leading to the selection of less optimal but more feasible options)
- ease of administration and/or administrative traditions (e.g. some policy instruments might be inherently easier to administer, while others entail greater complexity and risk; in some policy domains particular traditions – say, centralised, hierarchical management frameworks, as opposed to decentralised, distributed frameworks – might predominate, predisposing practitioners towards the selection of instruments that ‘fit’ with the existing administrative culture)
- the political dimension (e.g. recourse to particular policy instruments might be precluded because they are not considered to be acceptable to the community and/or they might be unacceptable to governments on ideological grounds).<sup>29</sup>

#### Policy implementation

The true test of any policy lies in its implementation. The Australian Department of the Prime Minister and Cabinet sets out a structured approach to thinking about how a policy or program will be delivered, framed around seven principles drawn from lessons learnt by frontline staff involved in implementation and delivery:

1. planning
2. governance
3. engaging stakeholders
4. risks
5. monitoring, review and evaluation
6. resource management
7. management strategy.

Implementation gives practical effect to policy. It is a complex process requiring application of a range of technical and management skills. Many seemingly ‘good’ policies fail in their implementation, resulting in a failure to achieve expected outcomes or in unintended ‘perverse’ outcomes.

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<sup>29</sup> Peters 2005.

## Implementation failure

Implementation failure can occur anywhere along the policy value chain and can be caused by any combination of:

- inadequate research, design and planning
- poor co-ordination and inadequate consultation with stakeholders
- insufficient resourcing and capacity constraints
- legislative and regulatory gaps
- proceeding too quickly and/or failure to 'pilot'
- failure to anticipate and/or effectively manage risks
- ineffective governance and/or administrative architecture
- multiple and/or incompatible policy goals.

Implementation failure entails significant costs in terms of finite resources (such as money, labour and time), reputation and trust. These include a failure to realise intended policy aims; loss of public confidence; costs of restoration, rectification or redress; costs arising from bringing failed programs to a premature end; lost opportunities (opportunity costs); and, for governments, loss of political capital (with potential electoral consequences). It is important to recall that policy making is, and remains, inherently 'political' and that 'policy success' will always be a contested assessment. Indeed, it might be said that 'failure' has been 'weaponised' in Australia's contemporary political culture.

## Conclusions

In this chapter we have attempted to introduce readers to a spectrum of ideas about the nature, formulation and 'craft' of policy making. In so doing, we have tried to:

- acquaint readers with the major theoretical approaches to understanding the policy process
- equip readers to more effectively understand past and present policy debates
- enable readers to interrogate the processes of policy development, implementation and evaluation.

Policy design and implementation is a complex and imperfect process that is often seen as more of a 'craft' than a formal discipline. Policy professionals tend to 'learn on the job', and even those who have formal qualifications in public policy or exposure to the academic study of policy often find that the pragmatic reality of policy making aligns poorly with policy theory.

The Australian policy cycle and the policy value chain offer sound practical templates for policy design and evaluation. Unfortunately, as will be attested by many policy professionals working within government, 'policy craft' is seldom conducted in full accordance with such orderly, rational models.

In contemporary policy spaces, effective policy craft increasingly comes down to working effectively within networks inside and outside government. Today's policy professional needs to be acutely aware that governments have many sources of policy advice and that many of these sources have vested interests in particular outcomes. Above all, a capacity for critical reflection and an ability to anticipate the risks and consequences of policy choices provide the foundation of sound policy practice.

It is our hope that the concepts canvassed in this chapter will assist readers to make sense of scholarly and media accounts of policy histories and policy making in different domains and of the changing role, form and *modus operandi* of the public sector.

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# Communication policy

Jock Given

## Key terms/names

Australian Communications and Media Authority (ACMA), Australian Competition and Consumer Commission (ACCC), creative industries, data economy, digital dividend, Fourth Industrial Revolution, G20, information and communications technology (ICT), intellectual property, Internet of Everything, market capitalisation, National Broadband Network (NBN), radiofrequency spectrum

Communication matters to people and organisations and Australian governments do a lot to enable and manage it. Through much of the 20th century, they controlled state-owned enterprises and statutory agencies that provided all the postal and domestic telecommunications services. Government-funded broadcasters also provided some radio and TV services under Australia's 'dual system' of public and private enterprises. Commercial operators dominated other media sectors – movies screened in cinemas, and printed newspapers, magazines and books – although governments were active there too, supporting public libraries to provide equitable access to printed media and eventually supporting Australians to create texts and audiovisual works. The private sector also played a big role in pioneering international telecommunications services, until these were nationalised after the Second World War, and in manufacturing equipment for networks and telephone, radio and television receivers for consumers. Parliaments passed a growing body of laws to regulate the activities of all these public and private communications enterprises.

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Late in the 20th century and early in the 21st, three major changes occurred. The telecommunications market was liberalised, privatised then partly re-nationalised. New entrants were allowed to offer services and build their own infrastructure and the government's shareholding in the incumbent Telstra was sold in three tranches from 1997 to 2006. From 2009, the National Broadband Network (NBN) returned the federal government to a large, direct role in the local telecommunications market. Second, foreign ownership restrictions were progressively removed, and particular transactions accommodated, in ways that permitted a higher level of overseas participation in media sectors that had been largely controlled by Australians. Third, from the mid-1990s, the internet transformed the social and economic processes of communication. This eventually affected all people and enterprises. For Australian policy makers, one of the most important features of the new digital economy and society was that largely new commercial organisations came to dominate it – Facebook, Apple, Alphabet/Google, Amazon, Netflix and Microsoft. They became the world's biggest corporations, measured by market capitalisation, and they were based outside Australia. This changed some of the targets and instruments of Australian communications policy, though many of its broad themes have endured.

#### What's at stake?

Communication raises at least four issues for politics and public policy. Citizens, consumers, enterprises, defence forces, elected representatives and others require information that is carried over communications networks. Those networks also convey ideas, images, sounds and stories that shape culture and identity. Communications industries contribute directly to employment and economic activity and provide vital inputs to other industries.

One of the first things the Australian parliament did after Federation in 1901 was create an information powerhouse by merging the six state post, telegraph and telephone administrations into a single enterprise run by a federal department. More than half the total sum appropriated under the first *Consolidated Revenue Act, No. 3 1901* (Cth) was allocated to it. When television was introduced in 1956, expectations about its cultural impact quickly prompted demands for policy measures to ensure this new medium did more for Australian culture than the tiny local film industry at the time. The scale and value of equipment purchased for telecommunications networks encouraged governments to support local manufacturing, initially by tariff protection and later by requiring carriers to have industry development plans. Since then industry policy in the sector has continued but it has been redirected towards creative, service industries rather than equipment manufacturing.

Digital networks have accentuated the role of communications as an input to other industries. Recent analysis of investment in Australia from the mid-1960s to 2011 found a higher rate of return for information and communications technology

(ICT) than non-ICT capital investment, and that the impact of ICT investment was more profound over the longer term.<sup>1</sup> ICTs have come to be seen as ‘general purpose technologies’. These are ‘characterised by the potential for pervasive use in a wide range of sectors and by their technological dynamism’. According to Bresnahan and Trajtenberg, ‘As a [general purpose technology] evolves and advances it spreads throughout the economy, bringing about and fostering generalized productivity gains’. Earlier examples include the steam engine, the factory system, electricity, and semiconductors.<sup>2</sup> The perceived breadth, depth and scale of the impact of networked digital technologies have attracted the attention of politicians and policy actors well beyond the domain of ‘communications’. So, for example, the initial members of the working group established in 2017 to consider 5G wireless developments included representatives from federal departments responsible for agriculture and water resources (especially for ‘precision agriculture’); infrastructure and regional development (autonomous vehicles); Prime Minister and Cabinet (smart cities and digital transformation activities); industry, innovation and science (digital economy strategy); as well as communications and arts.

Australian consumers have been spending more on communications in recent years. Even though the cost per gigabyte of data fell between 2014 and 2018, the share of household income devoted to internet services grew because more time is being spent online and much more data is being downloaded.<sup>3</sup> For industry, communications plays a central role in future transformations encompassed by terms like the ‘Industrial Internet’, the ‘Connected Enterprise’ and the ‘Internet of Everything’. This is what consulting firm Deloitte and others call a ‘Fourth Industrial Revolution’, to follow the revolution in power generation in the late 18th century, industrialisation in the early 20th century, and electronic automation from the 1970s to the 2000s. This next phase, according to Deloitte, will be about ‘smart automation’, where machines no longer simply create products, but ‘product[s] communicate with the machinery to tell it exactly what to do’.<sup>4</sup>

A report prepared by the OECD for a 2017 meeting of the G20 found adoption and use of digital technologies varied across the group’s members, which together account for about 85 per cent of the world’s production and two-thirds of its people. This ‘rais[ed] concerns about the inclusiveness of the digital transformation’. The report’s authors made many recommendations about policies that should be pursued, including encouraging take-up of digital technologies among small and medium-sized enterprises; better access to finance for innovative enterprises; open and voluntary standards; addressing the economic and social as well as technical dimensions of digital security; improved generic, specialist and complementary

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1 Shahiduzzaman and Khorshed 2014.

2 Bresnahan and Trajtenberg 1995, 84.

3 Thomas et al. 2018, 12.

4 Sniderman, Mahto and Cotteleur 2016, 2–5.

ICT skills; better protection of consumer rights; and regular reviews of legal frameworks and broadband infrastructure.<sup>5</sup>

Characteristics of the policy space: what do we know

Because communication is so central to all aspects of social and economic life, it is not easy to fix boundaries around the policy space it occupies. The rhetoric of rapid, revolutionary change that so often accompanies discussion and debate is not always matched by the prosperity of the largest Australian enterprises or the industry as a whole. Networked digital services create rich sources of data about consumer behaviour but increasingly sophisticated and personalised patterns of use complicate the task of making sense of it. New policy issues arise but old themes endure.

In recent years, expenditure on communications devices and services has grown steadily and data downloaded over fixed and mobile networks has soared. Australia's communications industry, however, has not been buoyant. According to the Australian Bureau of Statistics, 'gross fixed capital formation' by Australia's 'information media and telecommunication' enterprises doubled from 2007/08 to 2016/17, driven by public investment in the NBN and private investment especially in mobile networks, cloud storage facilities and backhaul networks. Yet total employment in 2016/17, at 171,000 people, was unchanged from 10 years earlier, and profits (measured by 'earnings before interest, tax, depreciation and abnormal items', EBITDA) were just 5 per cent higher. Across the whole economy over the same period, employment grew by 15 per cent and profits by 54 per cent. That means the proportion of the workforce employed in 'information media and telecommunication' fell from 1.8 per cent to 1.6 per cent, and the sector's share of profits declined from 6.3 per cent to 4.3 per cent, while its share of investment grew from 5.4 per cent to 8.5 per cent.<sup>6</sup>

The composition of the industry has also changed, with important implications for the issues and actors of policy. Traditional telecommunications, broadcasting and publishing have grown slowly or declined; internet or cloud-based services including streaming video-on-demand have grown sharply. Landline telephony has fallen steadily while fixed and mobile broadband has grown.<sup>7</sup> The challenge of profiting from the apparent boom in communications is reflected in the share price of Australia's largest telco, Telstra: down from over \$4 in November 2008 to less than \$3 a decade later, after rising above \$6 in early 2015.<sup>8</sup> The 2018 takeover of

5 OECD Directorate for Science, Technology and Innovation 2017, 6–10.

6 Author analysis of data in ABS 2018. This publication provides annual estimates of the performance of Australian industries by combining data from the ABS's annual Economic Activity Survey (EAS) and Business Activity Statement (BAS) data provided to the Australian Taxation Office.

7 ACMA 2017.

8 Australian Stock Exchange 2018.

Fairfax Media by Nine Entertainment Corporation was justified as a merger of old newspaper and TV assets to create a media company for the future, but it was also an opportunistic acquisition of the currently faster-growing Domain (real estate advertising) and Stan (video streaming) businesses at a moment of 'elevated valuation' of Nine's stock.<sup>9</sup>

The tech giants that have risen to such prominence in the communications and media landscape – Facebook, Apple, Amazon, Netflix and Google/Alphabet, the so-called FAANGs, as well as the durable Microsoft – are based overseas, unlike so many of the telecommunications, television and newspaper companies that dominated in Australia in the second half of the 20th century. Traditional measures of the scale of foreign involvement in domestic markets, like 'foreign direct investment' and numbers of local employees, are not good proxies for the level of influence achieved by US-based platforms. A large part of their power arises from the data they are able to collect and analyse about their users. This data has itself become an economic resource, 'the oil of the digital era'. Some argue it has changed the nature of competition so fundamentally that it necessitates a 'radical rethink' of competition policy.<sup>10</sup> At the same time, the corporate behemoths of the formal 'data economy' borrow from and interact with an informal economy of user-generated content, open source software, crowd-funded projects, unremunerated labour and organisational cross-subsidies.<sup>11</sup> The scale and sophistication of the data and analytical tools promise new levels of knowledge for policy makers, while the complexity of online and offline behaviour reinforces the fundamental unknowability of social practices.<sup>12</sup>

#### Actors and politics of the domain

*The Australian Policy Handbook's* summary of the institutions of Australian public policy lists various elements of government (the executive, the Cabinet, public servants, ministerial advisers) and opposition, the 'third sector', the 'fourth estate', social movements, lobbyists and stakeholders.<sup>13</sup> In communications, several specific institutions deserve particular attention. Publicly funded regulators (the Australian Communications and Media Authority, the Australian Competition and Consumer Commission) and industry-funded complaints-handling organisations (the Telecommunications Industry Ombudsman, the Australian Press Council) play significant roles. The prevalence of state-funded organisations, discussed in the next section, means governments still play a major role in providing communications services as well as regulating service providers. The fourth estate,

9 Hewett 2018.

10 'The world's most valuable resource' 2017.

11 Lobato and Thomas 2015.

12 Given 2012.

13 Althaus, Bridgman and Davis 2018, 18–31.

the media, is part of the field itself, not just the conduit for disseminating information about it. Citizens who are the ultimate focus of all policy need to be conceptualised also as consumers, users and audiences for communications services.

An important addition to the list of public policy institutions in communications are international organisations like the Universal Postal Union, International Telecommunication Union (ITU), and World Intellectual Property Organisation (WIPO) – all of which are United Nations agencies – and the World Trade Organization (WTO) and Internet Corporation for Assigned Names and Numbers (ICANN). Domestic policy has to be co-ordinated with these organisations. For example, local laws have to be amended to translate commitments made in international agreements; auDA manages the .au domain space allocated through ICANN, the non-profit corporation, incorporated in California that, among other things, manages the internet's global domain name system. These institutions reflect the longstanding international dimensions of communications policy. From the earliest days of postal and telegraph services, protocols were needed to manage and share the costs and revenues of delivering physical articles across national borders and interconnecting electronic networks. The ITU now also co-ordinates the international management of radiofrequency spectrum and satellite orbits as well as standardisation of technologies for things like internet access, transport protocols, home networking and video compression. WIPO and the WTO oversee the global agreements put in place over many decades to manage intellectual property and trade. They also handle disputes that arise under them.

These global arrangements are complex and overlapping: there are many regional (like the Trans-Pacific Partnership Agreement) and bilateral (like the Australia–New Zealand Closer Economic Relations Agreement) trade agreements as well as the WTO's multilateral ones, and trade agreements now often include detailed provisions about intellectual property that are not necessarily consistent with WIPO agreements. Alongside these longstanding international dimensions, networked digital technologies have accentuated the global nature of many other policy issues. Global communication is not new – Australians have always read books, listened to music and watched movies from elsewhere and sent messages over networks owned and controlled by overseas-based organisations – but the current phase has rendered nationally based policy measures less effective in areas like taxation of multinational corporate activity, competition, consumer protection and policing child pornography.

High-level public policy goals for communications in Australia are expressed in the objects of legislation, the outcomes specified for government funding programs and the charters of public institutions. Statutory objects emphasise several broad areas: first, equitable *access* to reliable basic services and innovation in the development of new services; second, *content* that reflects Australian identity, character and cultural diversity, covers issues of local significance, treats matters of public interest fairly and accurately, and respects community standards; and an

*industry* that is efficient, competitive and responsive to Australian needs. These are enduring themes, articulated in distinctive policy responses in different eras. So regular mail deliveries and public payphones have been overtaken by fast fixed broadband and wide mobile coverage as the most important basic services. Broadcast radio and television are now less important to emerging generations than to older media users. The High Court's 1992 *Mabo* decision<sup>14</sup> rewrote the political and cultural framework within which 'Australian content' needs to be imagined. Existing mechanisms for dealing with fairness and accuracy in news and current affairs have been overwhelmed in the digital era: policy responses to 'fake news' are a work-in-progress.<sup>15</sup> Communications networks have always been instruments of defence, national security and law enforcement but the rules and tools of surveillance have changed constantly: foreign shareholding in Telstra is still capped at 35 per cent and in 2012 and 2018 the federal government banned Chinese telecoms equipment makers Huawei and ZTE from supplying equipment for the NBN and 5G networks.<sup>16</sup>

There is a strong element of bipartisanship in these broadly expressed goals but communications is often a heavily contested, highly political field. This is partly because the goals themselves sometimes conflict with each other: introducing a major overhaul of broadcasting law in the early 1990s that introduced statutory objects for the first time, the minister acknowledged 'there are some tensions between the objects that will need to be balanced by the regulator and the courts'.<sup>17</sup> Suppliers, regulators and customers can legitimately disagree about the benchmark set in the *Telecommunications Act 1997* (Cth): 'accessible and affordable carriage services ... supplied at performance standards that reasonably meet the social, industrial and commercial needs of the Australian community'.<sup>18</sup> The National Classification Code says 'adults should be able to read, hear, see and play what they want', but also that 'everyone should be protected from exposure to unsolicited material that they find offensive'. The Australian Broadcasting Corporation (ABC) is 'by far the nation's most trusted media organisation', according to a Roy Morgan survey in May 2018,<sup>19</sup> although some in politics deeply distrust it: 'our enemies talking to our friends', said former Howard government adviser Graeme Morris in 1997.<sup>20</sup>

The broadening and deepening of the social and economic role of networked digital technologies has changed the politics of communications in at least two ways. First, the political power of particular media forms, especially commercial TV, newspapers and talkback radio, has diminished, along with the unrivalled

14 *Mabo and others v Queensland (No. 2)* [1992] HCA 23; (1992) 175 CLR 1 (*Mabo*).

15 Nelson and Taneja 2018; Viner 2016.

16 Slezak and Bogle 2018.

17 Collins 1992, 3600.

18 *Telecommunications Act 1997*, section 3.

19 Roy Morgan 2018.

20 Hartcher 2009.

influence of their owners. Former editor-in-chief of the *Herald* and *Weekly Times*, Les Carlyon, described Australia's media policy in the 1980s and 1990s as 'founded on notions of mates [especially Kerry Packer and Rupert Murdoch] and enemies [especially the old owners of the Fairfax and *Herald* and *Weekly Times* newspapers], just like the third world'.<sup>21</sup> The decline in the power of old media's owners was especially apparent through the long process of switching broadcast television to digital transmission from 2001–13, which freed a large amount of radiofrequency spectrum for mobile broadband.<sup>22</sup> The technological migration enabled both an economic and a political transition.

Second, the libertarianism of the early internet has moderated. In 1996, Electronic Frontiers Foundation co-founder John Perry Barlow asked the 'Governments of the Industrial World' to leave cyberspace alone: 'You are not welcome among us. You have no sovereignty where we gather.'<sup>23</sup> Since then, as the internet has been integrated into almost every aspect of life, communication and commerce, governments have moved to treat online and offline activities more consistently, even in areas like taxation and content regulation which were once argued to be firmly off-limits. The ACMA's chair, Nerida O'Loughlin, said in 2018: 'Government regulation has started, particularly in Europe. I think the days of saying we won't do anything because of a US-based view of free speech are well and truly over.'<sup>24</sup>

#### How policy is made for communications

Communications policy uses three main tools: law, money and ownership. It is made by governments and parliaments that make and amend laws; regularly decide to allocate money through annual budget processes; and occasionally decide to create, redesign, privatise or otherwise disband the activities of public institutions. Laws can directly prohibit or require certain behaviour, or permit it subject to conditions. They can also create markets for commodities like radiofrequency spectrum and intellectual property, and rules to be observed by anyone trading them. Money can be allocated to individuals or organisations as grants, investments, loans, minimum guarantees or tax concessions to meet the cost of doing particular things: making a movie, erecting a mobile phone tower, conducting research about consumer needs or advocacy on behalf of specific types of consumers. Institutions can be created to carry out public missions with varying degrees of independence from the governments that establish, fund and oversee them: public broadcasters, a national library, a national broadband network.

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21 Cited in Barr 2000, 1.

22 Given 2009.

23 Barlow 1996.

24 Day 2018.

## Laws

Parliaments pass laws to prohibit or require conduct by individuals or organisations. General prohibitions about communications are set out in the Commonwealth Criminal Code. It outlaws many kinds of interference with ‘national infrastructure’, including tampering with or stealing mail, intercepting electronic communications and accessing data on a computer without authorisation.<sup>25</sup> In recent years, federal and state laws have been introduced to deal with various forms of cyberbullying and online abuse, including ‘revenge porn’. Legislation passed in 2015 established a complaints mechanism and an eSafety Commissioner to administer it, under which individuals, websites and social media services can be asked or required to remove cyberbullying material targeted at an Australian child. Amendments in 2018 established civil penalties and criminal offences for sharing intimate images without consent. Perpetrators can be imprisoned for up to seven years and substantial monetary penalties can be imposed on individuals and corporations that do not remove offending content when directed by the eSafety Commissioner.<sup>26</sup>

Some forms of interference with communications that would otherwise be prohibited are allowed for law enforcement purposes, subject to safeguards. Communications service providers are now *required* to keep records to assist enforcement agencies. The government argues these ‘data retention’ rules are necessary to support serious criminal and national investigations: data gathered can be used to identify suspects and networks, rule out innocents, and support applications for warrants needed for more intrusive forms of investigation. From April 2017, the scheme has required telecommunications service providers using infrastructure in Australia to retain and protect specified data about individual communications for at least two years: subscribers’ names, addresses, phone numbers, email and IP addresses, as well as the source, destination, time and duration of any communication, and the physical location from which they are made, though not the content of messages. More than 20 law enforcement and national security agencies can generally obtain access to this data without warrant; a warrant is required to access journalists’ data. The scheme is subject to independent oversight by the Commonwealth Ombudsman, or, for ASIO, by the Inspector-General of Intelligence and Security. The attorney-general reports annually to parliament on its operation.<sup>27</sup>

The main bodies of law about telecommunications, radiocommunications and broadcasting services in Australia pursue policy goals through licensing schemes. These work by prohibiting certain conduct without a licence, and then imposing conditions on different licence types. For example, it is unlawful to use particular

25 Chapter 10, *Criminal Code Act 1995* (Cth).

26 *Enhancing Online Safety Act 2015* (Cth); *Enhancing Online Safety (Non-consensual Sharing of Intimate Images) Act 2018* (Cth).

27 *Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015* (Cth).



parts of the radiofrequency spectrum known as the ‘broadcasting services bands’ without a licence. One form of licence permits holders to transmit ‘community broadcasting services’. These are only available to non-profit corporations, who can accept revenue from sponsorship but not advertising. Another example is the ‘class licence’ that authorises the use of mobile and cellular telephone handsets. Each device does not need its own licence: instead, manufacturers have to ensure their handsets comply with the conditions of the single, standing licence for that class.

Some laws are designed to influence behaviour indirectly by creating markets or rules that participants must observe. In communications, two crucial examples are the markets for radiofrequency spectrum and intellectual property. The laws about spectrum empower the minister and the regulator, the Australian Communications and Media Authority (ACMA) to decide who gets to use spectrum, for how long, how much they pay, the technical conditions and whether or not they can trade their rights. Intellectual property is *created* by law: without statutes that give rights to those who create copyright works, patentable inventions and protected designs, these forms of intangible property would not exist at all. Within bodies of law that apply across the whole economy, special rules are sometimes written for particular industries thought to have unique characteristics. Australia has a national ‘access regime’ allowing third parties to seek access to ports, airports, railway tracks and sewerage pipes,<sup>28</sup> as well as an ‘industry-specific’ access regime for telecommunications, designed to promote easy interconnection, competition, and efficient use and investment in fixed and mobile networks.<sup>29</sup> In this way, ‘mobile virtual network operators’ can offer services over other telcos’ networks without having to build their own.

### *Money*

Money can be spent or collected to encourage or discourage behaviour. Hundreds of millions of dollars have been spent since the late 1960s supporting Australians to make and distribute films, TV programs and other forms of audiovisual content that governments thought would not be produced otherwise. Concerned about the decline of mainstream news media, the federal government established a Regional and Small Publishers Innovation Fund in 2018 to assist ‘innovative and transformative’ public interest journalism projects ‘with an Australian perspective’: money is being given to projects designed to help publishers increase revenue, reduce costs or broaden audiences through new digital applications. Government money need not be provided by direct expenditure from the budget; it can also be provided by offering concessions on taxes that would otherwise be due. Most of

28 Part IIIA of the *Competition and Consumer Act 2010* (Cth).

29 Part XIC of the *Competition and Consumer Act 2010*. Part XIB sets out further telecommunications-specific rules about anti-competitive conduct and record-keeping by telcos.

the assistance to the film and TV industry is now provided this way, as tax ‘offsets’ or rebates encouraging production (‘Producer Offset’), large budget film and TV projects shot in Australia (‘Location Offset’) and post-production, digital and visual effects production in Australia (‘PDV Offset’).<sup>30</sup>

### *Institutions*

Australian governments have created many organisations to undertake communications activities. Their forms differ widely. Australia Post and National Broadband Network Co are government-business enterprises whose shares are wholly owned by the Commonwealth. One is old, the country’s oldest continually operating organisation; the other is young, created only in 2009. The national broadcasters (the ABC and SBS, into which the National Indigenous TV service was merged in 2012), the National Library and the Australian Film, Television and Radio School do not have shares, but are corporate Commonwealth entities set up under their own legislation. Their boards are appointed by the responsible ministers and funding is provided mainly from the federal budget. Another, different kind of organisation is the National Relay Service, a non-government organisation that has a contract with the federal government to run a call centre enabling people with hearing disabilities to make telephone calls. The contract is re-tendered when it expires and is funded by a levy on telecommunications carriers imposed under federal legislation.

### *Making policy*

The ‘Australian policy cycle’ described in *The Australian Policy Handbook*<sup>31</sup> is a useful way of conceptualising the way issues are identified and responses developed, implemented and evaluated, but it is rare for communications policy to proceed in so orderly a manner. The field is rife with large, detailed reports from government agencies and parliamentary committees that had little immediate impact, and relatively brief ministerial media releases that announced fundamental changes. In telecommunications, the NBN, announced by the Rudd government in April 2009, was an example of the latter. The ‘Beazley Statement’ that ended Telecom Australia’s monopoly in the early 1990s was another, although it can also be interpreted as a delayed response to the recommendations of the Davidson Committee, which was shelved by the Fraser Coalition government that commissioned it.<sup>32</sup> The big changes to spectrum management implemented in the *Radiocommunications Act 1992* (Cth) were a rare example of a neat ‘policy cycle’: a report from the federal government’s Bureau of Transport and Communications

30 Screen Australia n.d.

31 Althaus, Bridgman and Davis 2018, 43–53.

32 Raiche 1997, 2.

Economics, then a public parliamentary inquiry, then draft legislation attracting bipartisan support.<sup>33</sup>

The NBN was a response by a new Labor government frustrated about the state of play in fixed line broadband. All three of the main tools of communications policy were deployed. The legislative changes that opened up the local telecommunications market to new players in the 1990s had not generated rapid take-up of high-speed broadband. Successive governments offered to provide money by way of co-investment with Telstra to build a 'next generation network' but had been unable to agree terms. Better broadband was an important element of Labor's pitch in the 'Kevin07' election campaign which emphasised 'the future' to contrast Rudd and his agenda with ageing incumbent John Howard. Even more frustrated with the state of Australian broadband after two years in office, Rudd announced the NBN, a wholly new, state-owned institution that would build the mainly fibre network itself, as well as new constraints on the infrastructure others could build. This was a striking return to the days of infrastructure monopoly that had ended with such policy fanfare just over a decade earlier, effectively a renationalisation of the last mile of the fixed line network connecting exchanges to customers.<sup>34</sup> At the 2010 federal election, the expensive commitment to an all-fibre network reaching more than 90 per cent of Australian households and business premises was a decisive policy for independent members of parliament representing traditionally conservative-held country seats. It persuaded them to support Labor ahead of the Coalition, enabling Prime Minister Julia Gillard to form a minority government. An analysis of the selection of NBN early release sites and voting patterns at the 2007, 2010 and 2013 elections found significant political economy dimensions to this big public intervention into infrastructure planning: the selection process was 'skewed up for potential political gains' and the heavy swing against Labor in the 2013 election was 'highly mitigated in the NBN early release sites', although the authors acknowledge their research method identifies correlation, not necessarily causation.<sup>35</sup>

A further example of a complex communications policy demonstrating the challenges of long-term planning and implementation in a fast-changing and politically charged field was the migration of TV broadcasting from analogue to digital transmission. Formal policy reports were produced in the 1990s by the broadcasting regulator (then the Australian Broadcasting Authority); major packages of legislation were passed in 1998 and 2000; a formal review of the policy was undertaken by the Productivity Commission as part of a wholesale reconsideration of broadcasting law;<sup>36</sup> large amounts of money were provided over many years to fund new equipment required by the ABC, SBS and country

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33 Productivity Commission 2002, 41.

34 Given 2010.

35 Tooran and Farid 2017.

36 Productivity Commission 2000.

commercial stations, and to track the take-up of digital receivers and assist low-income consumers; and legislative changes were made to remove some of the original constraints and impositions on broadcasters and others. Analogue TV transmissions were eventually switched off progressively from 2010 to 2013 and vacated spectrum was reallocated. Total revenue from the sale of that 'digital dividend' spectrum was \$3.7 billion in 2018/19 dollars, \$1.3 billion more than the total government expenditure outlaid to make the whole project happen. The experience provided at least three lessons for communications policy. It showed that a long-term government policy project could be undertaken, and achieve its major objectives, despite considerable disagreement over the detail. It also showed how much past policy decisions (in this case, about spectrum allocation) shape future possibilities, and the potential benefits and conceptual difficulties of early cost-benefit analysis, which was done in some countries but not Australia.<sup>37</sup>

These two examples demonstrate both the possibilities and the limits to radical policy action. Established institutions, infrastructure and people exert profound influence over policy decisions, especially through often long-running processes of transition from the old to the new.

#### Federal, state, local and international interactions

Communications is generally seen as a federal government responsibility in Australia. Using its constitutional power to make laws about 'postal, telegraphic, telephonic, and other like services',<sup>38</sup> the body of law that began in 1901 with post, telegraphs and telephones soon expanded to cover wireless telegraphy. Radio broadcasting was initially regulated as a form of wireless in the 1920s and 1930s before specific legislation was passed, first to create the Australian Broadcasting Commission in 1932 and then to regulate radio and later television broadcasting as a whole. High Court cases confirmed that the constitutional power encompassed these novel forms of communication, while leaving some doubt about pre-existing forms, especially printed media.<sup>39</sup>

Three principal statutes now cover telecommunications, radiocommunications (including the allocation of spectrum for mobile telephony and broadband) and broadcasting services. The power has also been used to make other federal laws; for example, prohibiting tobacco advertising from the 1970s, and to restrict interactive gambling from the early 2000s. The Constitution also empowers the Commonwealth to make laws about intellectual property, which it began to do in 1905 when the first copyright legislation was passed.<sup>40</sup> By 'covering the field' in these areas, the

37 Given 2018.

38 *Commonwealth of Australia Constitution Act 1900* (Cth), section 51(v).

39 See La Nauze 1968.

40 Section 51(xviii) of the Constitution covers 'copyrights, patents of inventions and designs, and trade marks'.

exercise of Commonwealth power has effectively excluded the states from policy measures that might, for example, have given the institutions of broadcasting a more regional flavour, as occurred in Germany.<sup>41</sup>

Beyond these areas, the Constitution leaves considerable room for the states to make laws about other matters relevant to communications. In areas such as classification of content, defamation and advertising, separate state laws were eventually integrated into more-or-less uniform national schemes. In areas like racial, religious and other forms of discrimination and vilification, the reporting of court proceedings, whistleblower protections, and freedom of information (or 'right to information'), significant differences in state and territory laws remain.<sup>42</sup> Federal, state and local laws interact in regulating the construction and maintenance of networks by telecommunications companies, especially mobile towers and overhead cables. The aim here is to strike a balance between the communications policy goal of reliable, affordable services and the desire of landowners, local communities and councils to shape the sometimes intrusive infrastructure of their own spaces.<sup>43</sup>

State governments have also chosen to spend money to pursue communications policy goals where federal government policy is regarded as falling short, or where co-investment can deliver better outcomes. For example, the Victorian government has invested in free public wi-fi in large regional centres. It has also funded mobile base stations in areas with poor or no mobile coverage and to improve coverage along busy regional rail lines. Aiming to support community activities, to assist public safety particularly during emergencies, and to boost economic activity and employment including through the 'visitor economy', state and territory governments have often co-invested in such programs with telecoms carriers, local councils and the federal government. Around 35 local councils in New South Wales hold equal shares in Southern Phone, a provider of commercial fixed and mobile phone and internet services designed to bring competition, and hence improved services and lower prices, to regional areas. It was set up in 2002 with federal funding from the Telstra sale proceeds. Councils have also used their planning and licensing powers in creative ways to support cultural activities and infrastructure, such as the Special Entertainment Precinct in Brisbane's Fortitude Valley.

Research into the relationship between the federally funded NBN and local government, especially in the areas of e-governance, socio-economic development and spatial planning, found 'a raft of mostly unscrutinised policy initiatives' developed to guide the early rollout and post-construction phase. This included 'some policy development regarding the socio-economic implications of the new

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41 Tworek 2015.

42 Pearson and Polden 2019 is a detailed, practical account of these and related laws and ethical principles.

43 Australian Government, Department of Communications and the Arts 2018.

infrastructure, but 'limited understanding' of the possibilities of e-governance and lagging focus on land use planning.<sup>44</sup> The findings highlight the policy challenges that digital networks provide to political structures that were crafted a long time ago – a feature shared with other overarching issues like climate change.

#### Debates and non-agenda issues

New forms of media and communication have often had dramatic impacts on existing practices and institutions. The rise of social media platforms is particularly significant for politics and policy in Australia for at least three reasons. First, these platforms have undermined the business models for news organisations, broadcasters and telcos that have been such important vehicles for achieving public policy goals. The seriousness of the challenges was demonstrated by the decision to have the ACCC conduct a Digital Platforms Inquiry in 2018, with a final report published in 2019. Second, social media have changed the ways issues make it onto and off policy agendas and how people and politicians respond. Mainstream media remain important but they are less dominant conduits for communication between electors and their representatives. Third, social media platforms have themselves become important policy-making institutions. Facebook and Google and their wholly owned subsidiaries Instagram and YouTube, for example, are now among society's most powerful information and cultural intermediaries. The terms and conditions of service they specify and the decisions they take in response to complaints now comprise jurisdictions with at least as much influence as law, the courts and formal systems of industry co- and self-regulation. An example of this agenda-setting and policy-making role is the decision by the rental accommodation app Airbnb to remove listings in Israeli settlements in the occupied West Bank 'that are at the core of the dispute between Israelis and Palestinians'. Acknowledging Airbnb itself was 'certainly not the experts when it comes to the historical disputes in this region' and that the listings were not illegal under US law, Airbnb nonetheless developed a five-point framework to guide decisions about listings in occupied territories generally and decided, in this case, to remove the 200 listings on its site.<sup>45</sup>

Much of the revolution in digital communications has not been controllable by the telecommunications and broadcasting institutions that managed so much technological change in Australia in the 20th century. New services like online and mobile search, streaming audio and video, social media and smartphone apps arrived without the government policy inquiries, public funding or legislative change that accompanied direct-dial telephones, AM and FM radio, television, the domestic satellite and digital TV. Yet old debates about the role of government

<sup>44</sup> Tooran 2015.

<sup>45</sup> Airbnb 2018; Kershner 2018.

– to intervene in markets or let them take their course – are never far from the surface. To the extent that the internet and Australia’s most popular social media platforms all originated in the USA, it is unsurprising that policy debate about them occurs against a background of American ‘First Amendment’ jurisprudence: ‘Congress shall make no law ... abridging the freedom of speech, or of the press’. The USA, however, is also home to antitrust laws, first enacted in 1890. When finally replicated in Australia in the 1970s, these imported a similar principle (consumers are best served when businesses compete freely) along with a different policy stance – the state might need to intervene in markets, rather than stay out of them, to ensure competition is free. In communications policy, aggressive antitrust action, like the break-up of the dominant telephone company AT&T in the 1980s, offer American precedents as significant as the long line of Supreme Court decisions striking down laws held to infringe free speech. ‘Free markets’ and ‘government’ intervention’ are not universal policy solutions but ‘two caricatured abstractions’.<sup>46</sup>

Tracing the development of the policy settlement in Australian broadcasting from the 1950s, when commercial stations and their interests dominated, regulatory agencies were weak, public trust obligations were unevenly applied, and the forces for change were weaker than those favouring institutional continuity, Terry Flew argued more than a decade ago that the scale of changes in the media landscape meant it was already inadequate to construct a social-democratic media policy that was ‘essentially defensive’.<sup>47</sup> Considering communications policy in the future, policy makers may have less – and less-effective – tools available to address challenges, because so many of Australia’s most influential communications services are now provided by corporations that are not licensed, funded or owned by Australian governments. The liberalisation and privatisation of communications markets and enterprises and the migration of broadcast television from analogue to digital transmission provided once-off opportunities to recraft policy settlements – to spend some of the proceeds of Telstra privatisation improving communications in under-served communities, and to create a satellite platform that finally equalised the availability of free-to-air TV services across the country. Beyond the likely privatisation of the NBN once construction is complete, big moments of rupture like these, providing scope for sweeping policy change and especially trade-offs among different constituencies, may be harder to identify.

## Conclusions

Networked digital communications and the liberalisation, privatisation and partial renationalisation of Australia’s communications markets and institutions have

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<sup>46</sup> Gruen 2018.

<sup>47</sup> Flew 2006.



changed some of the targets and instruments of Australian communications policy while preserving many of its broad themes. In a sector typified by rapid change in technologies and social and economic practices, policy makers, politicians and the Australian people need to be aware of the possibilities of both radical transformation and incremental adaptation along familiar lines. Old orthodoxies can provide irrelevant templates as well as durable wisdom.

The dramatic rise of networked digital media platforms has undermined business models for communications incumbents, fundamentally altered the processes of political communication, and created new corporate behemoths that are now potent policy actors in their own right. Predicting the political impacts of these changes is highly uncertain. Arguing for Indigenous recognition to be at the heart of any Australian republic, Megan Davis notes that no referendum has been held in the era of social media. ‘It can happen quickly with campaigns’, she says. ‘The old adage that, by and large, Australians trust and defer to politicians’ judgement on referendum questions may not hold up to scrutiny ... Being afraid of the constitutional amendment process in section 128 is to be scared of the *demos*.’<sup>48</sup>

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# Economic policy

Alan Fenna

## Key terms/names

comparative advantage, counter-cyclical policy, economic recession, fiscal policy, GDP, industrial policy, innovation, Keynesianism, macroeconomics, market economy, microeconomics, monetary policy, productivity, trade agreements

It is 'the economy' that provides the goods and services we consume. It is also the economy that provides the jobs and business opportunities that enable us to purchase those goods and services. And it is the economy that provides the tax revenue to fund the activities of government. It is easy to see, then, why managing the economy is one of the most important tasks of government. At the *macroeconomic* level, the task is to keep economic growth up and unemployment and inflation down. At the *microeconomic* level, the task is to optimise the structure of the economy for longer-term performance, ensuring that it remains internationally competitive.

In a 'market', 'free enterprise' or 'capitalist' system, dominated by private ownership and free exchange such as Australia's, the government can only *influence* how well the economy functions. Moreover, a small national economy such as Australia's is often at the mercy of events in the world economy. The main tools government has at its disposal to influence the economy are:

- *fiscal policy*: the way it taxes and spends
- *monetary policy*: setting official interest rates
- *financial regulation*: the rules governing banking and investments

Fenna, Alan (2019). Economic policy. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

- *trade policy*: regulation of the flow of goods, services and capital in and out of Australia
- *industry policy*: support and promotion of particular economic sectors or activities.

In Australia's federal system, most of these functions – particularly the main fiscal ones – are the responsibility of the Commonwealth government. The Commonwealth Treasury is the lead agency, and treasurers are the central figures.<sup>1</sup> Monetary policy is decided by a separate Commonwealth agency, the Reserve Bank (RBA). In some important microeconomic areas, the states retain a significant role, with each state promoting its own economic development as best it can.

While there is little opportunity to explore the broader context of economic policy here, it must be remembered that other policy areas, such as social policy and labour market policy, have direct implications for the economy and, reciprocally, social policy has a strong economic rationale.<sup>2</sup> Among other things, 'human capital', or the quality of the workforce and business people, is an increasingly important factor in economic performance.<sup>3</sup> Likewise, the tax and expenditure systems that are key instruments of economic policy have direct implications for the distribution of economic wellbeing or levels of economic inequality in society.<sup>4</sup>

#### The market economy

The challenges of economic policy are defined by the nature of the economy itself – a system of production and exchange that has, to a large extent, its own dynamics.<sup>5</sup> In tandem with the development of industrial capitalism has been the development of economics as a theory of how markets function.

#### *The invisible hand*

An economy such as Australia's is based on the free exchange of goods and services between businesses and individuals. This exchange is driven by the profit motive. What is produced and what price can be charged are not dictated by government (as they were under the communist system that once prevailed across a good part of the world but that has now retreated to Cuba and North Korea). Rather, they are determined by what demand exists or can be generated by the creation of new products or by advertising. The problem of balancing supply and demand is solved by the price mechanism: when demand exceeds supply, prices rise, prompting more production and reduced consumption, and when suppliers have too much stock,

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1 Bowen 2015.

2 Barr 2012.

3 Becker 1994; Edwards 2016.

4 Fenna and Tapper 2015; Fenna and Tapper 2012; Tapper, Fenna and Phillimore 2015.

5 Lindblom 2001.

they can reduce the price until the surplus is cleared. Millions of economic activities are thus co-ordinated in the most efficient way possible by what the founder of modern economics, Adam Smith, called the ‘invisible hand’.<sup>6</sup>

### *Innovation*

Not only does the market system solve the economic co-ordination problem, it also has built into it a relentless drive to innovate, since there are potentially great profits to be made from developing new products or more efficient ways of producing existing products.<sup>7</sup> The epitome of this in today’s world is, of course, information technology – where one hardly masters a new device before it is superseded by the next generation. The downside to continuous innovation is the ‘gale of creative destruction’ that relentless change brings: firms and industries die or decline as new ones push forward.<sup>8</sup>

In combination with the Industrial Revolution, which harnessed natural science and inanimate energy sources to create modern manufacturing and technologies, the market economy created the entirely unprecedented increase in wealth, living standards and social mobility in the past two hundred years.<sup>9</sup> These developments solved mankind’s material needs problem, but created what many see as new issues of consumerism and environmental destruction.<sup>10</sup>

### *Trade*

The market economy places a premium on exchange or trade, the logical extent of which is global free trade and integrated global economy. Recognition of the value of international trade was integral to the postwar international order, as leading Western countries signed up to the General Agreement on Tariffs and Trade (GATT) – now the World Trade Organization (WTO) – and set about progressively dismantling barriers to trade in the 1950s and 1960s. Tariffs had been implicated in the economic difficulties of the prewar period.<sup>11</sup>

International trade has, however, been a contentious issue since long before Adam Smith, with governments often under pressure to protect the local economy against ‘unfair’ competition or international divisions of labour that leave them producing less valuable goods or lead to the painful demise of existing industries. Sometimes government action takes the form of outright ‘protectionism’, through such measures as import tariffs, as US President Donald Trump has recently been

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6 Smith 1776.

7 Baumol 2002.

8 Schumpeter 1942.

9 Appleby 2012; Clark 2007; McCloskey 2016; Mokyr 2016; Pomfret 2011.

10 See, for example, Hamilton 2003; Hamilton and Denniss 2006.

11 Irwin 2012

implementing in the world's leading economy. Other times it takes the form of subsidies for local industry and other assistance measures.

*Role of government in a market economy*

Few people have any illusions that the market economy works perfectly, and economists have long recognised the tendency towards various forms of 'market failure'.<sup>12</sup> One form of failure is the inability of the market to supply those goods for which it is difficult to charge – what Adam Smith referred to as 'public works' and 'public institutions' – such as roads or schools.<sup>13</sup> Another is insufficient competition in some industries. And a third is the problem of 'externalities': the tendency for the costs or benefits of an economic activity to spill over onto third parties or be left for future generations to deal with.<sup>14</sup> Since the Industrial Revolution in the 19th century, the most significant negative externality has always been the pollution that an individual firm may inflict on the environment and society.

The consequence of such market failures, as Adam Smith originally suggested, is the need for some government intervention. Sometimes that means government stepping in to provide essential infrastructure. Other times it might involve protective or prudential regulation, such as environmental protection laws or financial systems regulation. How active a role government should play is, however, unavoidably an ideological question of individual values and preferences, ranging from those on the left supporting intervention to those on the right opposing it.<sup>15</sup>

*Ideologies and the mixed economy*

As market failures have increased in modern industrial society, so has the role of government. Since the mid-20th century, it has been common to refer to the resulting state of affairs as the 'mixed economy' – one combining both market and government. The mixed economy is based on the free exchange of goods and services in 'the market', but the market is supported, regulated, moderated and, in some areas, replaced by government action.

The balance between the private and public sectors is always going to be contentious and shifting. From a left-wing or social-democratic viewpoint, market failure is widespread and serious, requiring extensive governmental correction. From a right-wing, or liberal (sometimes 'neoliberal') viewpoint, market failure is often less of a problem than 'government failure' resulting from intervention.<sup>16</sup> The left's support for intervention is reinforced by their conviction that market outcomes are unfair and lead to gross inequalities in income, wealth and wellbeing.

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12 Pigou 1932; Quiggin 2019.

13 Smith 1776, book V, chapter 1.

14 Coyle 2011.

15 On ideologies, see Fenna 2013a.

16 Anomaly 2015; Cowen and Crampton 2002; Winston 2006; Zerbe and McCurdy 1999.

The right's scepticism about government, meanwhile, is reinforced by their belief that those inequalities reflect the way the market rewards effort, ability and investment. A related philosophical debate takes place around the question of what aspects of life should be insulated from the market.<sup>17</sup>

#### *The 'dismal science'*

By postulating economic actors as rational, self-interested individuals, economics has developed a framework for understanding the functioning of markets based on a handful of simple but powerful concepts and propositions.<sup>18</sup> That framework plays a central role in government decision making in the area of economics – generally considered to be the area most central to perceived success or failure of governments.<sup>19</sup> In the 19th century, economics was dubbed 'the dismal science' because it insisted that public policy could not avoid the implacable realities of economic life.<sup>20</sup> To this day, one of the challenges of economic policy making is the extent to which voters are 'deeply resistant to the messages of mainstream economic analysis.'<sup>21</sup>

Smith's *An inquiry into the nature and causes of the wealth of nations* was a treatise in favour of minimal government – or what became known as *laissez faire*. The story of economics over the past century has been, in many ways, the story of the clash between that free market perspective and more interventionist approaches.<sup>22</sup> Each new economic crisis presents the discipline with fresh challenges of explanation and sometimes with accusations that it has failed public policy, often by placing too much faith in the benign operation of markets.<sup>23</sup>

#### Macroeconomic policy

Government's most prominent concern today is with macroeconomic policy – or the short- to medium-term performance of the economy as a whole. Macroeconomic policy has three aims. First and foremost, ideally, everyone who wants or needs a job should have one – full employment. Second, prices should be stable over time – low inflation. Third, the value of what the economy produces must increase by at least a few per cent each year – economic growth.

17 Barber 2008; Sandel 2012; Satz 2010.

18 For example, Coyle 2004.

19 Kane 2016.

20 Groenewegen 2001. Cf. Coyle 2010.

21 Garnaut 2013, 79.

22 Backhouse 2010; Backhouse 2002; Wapshot 2011.

23 For example, Balogh 1982; Blanchard et al. 2016; Cassidy 2009; Easterly 2014; Krugman 2018; Quiggin 2012; Rodrik 2015; Stiglitz 2018; Taylor 2011.

### *Economic growth*

Economic growth is an increase in gross domestic product (GDP) – a flawed but essential measure of economic activity.<sup>24</sup> A rapidly developing economy, such as China's, might grow at 6 to 9 per cent per year, while a typical developed economy, such as Australia's, can be expected to grow at a much more modest 2 to 3 per cent per year. Even that can exaggerate the degree of 'real' growth, since it may simply represent population growth. When there is *per capita* increase in GDP, we can say that the 'standard of living' is going up. Over the longer term, growth and the resulting increase in the standard of living is driven by the economy's increased *productivity* – more is being produced for the same amount of effort or input. If productivity is increasing, there is room for workers to receive increases in their real wages. The main factor in increased productivity is innovation – its dynamic contribution to capitalist economies was noted above.

### *Growth and the business cycle*

Growth rates vary from year to year, often building to a high point and then stalling, in a pattern referred to as the 'business cycle'. When growth slows, unemployment rises; if growth ceases altogether and the economy shrinks, the result is an economic recession, or, if it persists, an economic depression. The most recent recession globally was the 'great recession' in the USA and other advanced countries of the Organisation for Economic Co-operation and Development (OECD) that was set off by the Global Financial Crisis (GFC) of 2008.<sup>25</sup> The great recession resulted in burdensome government debt loads in a number of OECD countries; those, in turn, led to politically, and perhaps economically, painful spending cuts referred to as 'austerity' policy.<sup>26</sup> Australia narrowly escaped that recession; its last serious downturn was in 1990–91 and its last depression was in the 1930s.<sup>27</sup>

### *The financial sector and the 'real economy'*

The GFC of 2008 was a crisis not in the 'real' economy, where goods and services are traded, but in the financial sector, where money is traded. The financial sector – with its periodic banking crises and speculative investment 'bubbles' – has always been a weak point in the capitalist system, and that weakness sparks efforts to

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24 Coyle 2014; Stiglitz, Fitoussi and Durand 2018.

25 Garnaut and Smith 2009; Lybeck 2011. The OECD is a club of 36 mainly developed economies including Australia that undertakes shared research to enhance economic performance and social welfare.

26 Atkinson 2014; Blyth 2013; Clark 2015; Quiggin 2018; Tooze 2018; Wanna, Lindquist and de Vries 2015.

27 Macfarlane 2006; Keating 2015.



impose more effective regulation.<sup>28</sup> Australia escaped the great recession in no small part because, by dint of good fortune, it avoided a financial crisis.<sup>29</sup>

### *Growth and inflation*

If the economy grows too quickly, demand for certain goods and services starts to exceed supply, forcing prices to rise in a process known as *inflation*. A low and stable rate of inflation, where prices increase by a few percentage points a year, is fine – indeed, quite healthy. If inflation starts to spiral upwards, however, difficulties quickly emerge. Along with a number of other OECD countries, Australia had difficulty containing inflation through the 1970s and 1980s. Economic policy making is heavily constrained under such circumstances, since, rather than stimulating the economy, further spending simply stokes inflation. Ideally, an economy stays in the sweet spot, where everything is in balance – but we don't live in an ideal world.

### *Keynesianism and the economic cycle*

Until the Great Depression of the 1930s, it was an article of faith that, if left to their own devices, markets would function to keep unemployment and prices stable. The economy should naturally move towards 'equilibrium' through the action of the price mechanism. That did not seem to happen in the Great Depression, and since the revolution in economic thinking sparked by English economist John Maynard Keynes,<sup>30</sup> it has generally been accepted that governments have an essential role to play in smoothing the economic cycle.<sup>31</sup> They must counteract tendencies towards either unemployment or inflation by adjusting levels of effective demand. When economic activity slows and unemployment rises, demand needs to be stimulated by putting more money into people's hands. Conversely, when the economy is in danger of overheating and causing inflation, demand needs to be reduced by tightening the supply of money.

Counter-cyclical demand management is known as 'Keynesianism' and is implemented through some combination of monetary and fiscal policy. Reducing interest rates, reducing taxes and increasing government spending are the three mechanisms for stimulating the economy by increasing demand. In Australia, as in many other Western countries, responsibility for monetary policy has been assigned to the Reserve Bank – the banker to the banks. Under legislation, the RBA is tasked with keeping inflation within a 2 to 3 per cent band, raising interest rates when the inflation rate threatens to rise above that and lowering them when inflation

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28 Arcand, Berkes and Panizza 2015; Minsky 1986; Rajan 2006; Reinhart and Rogoff 2009; Shiller 2016.

29 Bell and Hindmoor 2019.

30 Keynes 1936.

31 Backhouse and Bateman 2011.

threatens to fall below. Fiscal policy, meanwhile, is up to the government of the day, which may decide to increase or decrease spending or taxation at any point.

Monetary policy has three great advantages: raising or lowering the official interest rates (the 'bank rate') costs nothing, takes immediate effect and can be reversed or fine-tuned at any time. However, it may not always be effective and is constrained by the 'zero-bound' limit – interest rates can only be lowered so far. In the past few years, official interest rates have been close to or at zero in several countries. Once rates are that low, central banks can only stimulate the economy by printing money – 'quantitative easing,' as it is somewhat euphemistically known.

#### *Co-operation or conflict?*

Ideally, fiscal and monetary policy work together, complementing and reinforcing one another. However, this is not always the case. There are times, for instance, when central banks respond to what they see as economically reckless fiscal policy by raising interest rates even though such a move might be unpopular and embarrassing to the government. Given that it is almost always politically easier to spend money than to make budget cuts, the ability to play this role is precisely why many countries, such as Australia, moved towards central bank independence in the 1980s and 1990s. The RBA thus operates independently from the government of the day to insulate rate-setting from political pressures.<sup>32</sup>

Even when acting in concert, it is not easy to get the balance between fiscal and monetary policy right. Australia, for instance, used aggressive fiscal policy to fight off recession in 2008–09, but it might have been better off spending less and lowering interest rates further instead.<sup>33</sup> Meanwhile, both fiscal and monetary policy have difficulty addressing conditions that vary across the country. They represent a 'one-size-fits-all' approach that creates dilemmas if one region or sector is booming and others struggling, as is sometimes the case in Australia.

#### *Keynesianism in practice*

In many cases, what sounds good in theory may be rather more difficult in practice. In the Keynesian view, there are times when risk of an economic downturn is so great that governments should not hesitate to run deficits and accumulate debt to stimulate the economy. This is particularly the case when, as happened in some countries during the GFC of 2008–09, interest rates have been lowered as far as they can go. When times are good, governments need to be running equivalent surpluses to stop the economy from overheating and to pay down that debt.

To some extent this happens automatically. In today's world, with substantial levels of taxation and an extensive 'welfare state,' government spending goes up and

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32 Bell 2004.

33 Walter 2017, 125.

tax revenue goes down when the economy declines, and the reverse occurs when the economy improves. However, these ‘automatic stabilisers’ may not be sufficient on their own, and economic fluctuations still may require ‘discretionary’ policy decisions to increase or cut spending or taxes.

When Australia faced what looked like an economic abyss with the GFC in 2008, the circumstances were highly favourable for a Keynesian response, and the newly elected Labor government, led by Kevin Rudd, launched a series of spending initiatives to boost demand.<sup>34</sup> That vigorous response seemed to be vindicated when Australia emerged as one of the very few OECD countries to avoid recession. To what extent the policy initiatives themselves can be credited with that success, and to what extent they were well calibrated and designed is, however, difficult to judge.<sup>35</sup>

Economists debate how effective or realistic Keynesian notions of ‘demand management’ are, and some also point out that how well the economy performs may be influenced as much by supply-side factors as by demand-side ones. If taxes are too high or hiring and firing regulations too strict, for instance, businesses will be less likely to respond to increased demand by hiring more workers. Keynesianism has experienced its own ups and downs, depending on how well it seemed to be working. It was broadly accepted in the postwar boom conditions of the 1950s and 1960s; but it fell out of favour when Western economies experienced simultaneous slowing growth, rising unemployment and high inflation – ‘stagflation’ – in the 1970s. It then enjoyed a great revival with the onset of the GFC and ensuing recession in 2008.<sup>36</sup>

### *Ideology again*

While the discussion so far could give the impression that managing the economy is a technical question of pulling the right levers to get the optimal outcome, the reality is far more complex and contested. Macroeconomic policy is a deeply political issue, where perspectives and priorities are unavoidably shaped by interest, ideologies and values. As with interventionism generally, the Keynesian demand-side approach has always been favoured by the left, while supply-side considerations have typically been prioritised by the right.

It is not surprising, then, that the Rudd Labor government enthusiastically embraced a Keynesian solution in 2008–09. Likewise, it is unsurprising that the Liberal–National (Coalition) parties warned that the result would be wasteful spending and a large increase in government debt, which represented an ongoing constraint for future governments. The Coalition parties tend to favour supply-side measures, such as tax reductions, particularly for business enterprises, on the basis that this will create greater incentives for investment, innovation and job creation.

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34 Fenna 2010.

35 Fenna and 't Hart 2019.

36 Clarke 2009; Fenna 2010; Macfarlane 2006; Skidelsky 2009.

## Microeconomic policy

In addition to the challenges of managing the economy over the cycle, there are the questions of how the economy is structured, how competitive local industries are internationally and how well the economy can be expected to perform over the medium to long term. These microeconomic issues have been a major focus of policy in Australia throughout the country's history. They are important because our standard of living – how wealthy we are as a country – depends on our ability to sell into export markets and attract investment capital in a way that finances the goods we import. Some of those imports are for Australian businesses to use for their own production, such as machinery for factories or mines. Many imports, though, are consumption goods bought by individuals.

### *The resource economy dilemma*

Since European settlement, Australia has developed via the export of primary products. In other words, Australia exploited its resource and agricultural wealth – most famously in the form of gold and wool. Those exports financed the import of investment capital and of the wide range of manufactured goods integral to an advanced economy and society. Consistent with the teachings of classical economists such as Adam Smith and David Ricardo,<sup>37</sup> Australia thrived by exploiting its *comparative advantage* – focusing on what it could produce most profitably and importing the rest. A country is seen as having a comparative advantage in primary products if it is abundant in resources, or a comparative advantage in manufactured goods if it is abundant in capital and labour. Australia's situation remains similar today. 'After more than 150 years of sustained high incomes, the comparative advantage of this economy still lies in its resources.'<sup>38</sup> Eight of Australia's top 10 exports today are primary products: iron ore, coal, natural gas, gold, aluminium ores, beef, wheat and petroleum. The two exceptions are services: tourism and education.

Although 'Australia prospered' from its primary products, as McLean puts it,<sup>39</sup> a major theme of Australia's economic policy has been the concern that resource exports provide an unreliable basis for long-term wealth and that the country should diversify to establish a more 'normal' export profile for an advanced economy. That, however, requires the development of a manufacturing sector that is capable of competing, first, in the domestic market against imports, and second, in overseas markets. The limitations of resource dependence first became apparent when the colonial gold rush ended in 1860. In response, Australia turned to a policy of tariff protectionism, beginning in the colony of Victoria and subsequently implemented

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37 Ricardo 1817; Smith 1776.

38 McLean 2013, 5.

39 McLean 2013.

on a national scale immediately after Federation. This was intended to shelter the country's 'infant' manufacturing industries and thereby diversify the economy.

Tariff protectionism complemented a heavy reliance on government for the provision of key infrastructure, which was inevitable in a developing country such as Australia.<sup>40</sup> It was reinforced by the introduction of provisions such as centralised wage fixing and the principle of the 'living wage' through the arbitration system and of the White Australia policy protecting Australian workers from an influx of low-wage Asian labour. It was 'a strategy of *domestic defence*'<sup>41</sup> that has also been called 'the Australian Settlement'.<sup>42</sup> Diversification was also encouraged by the two world wars, which reduced access to imported manufactured goods and increased the demand for military materiel.

#### *The end of the protectionist road*

While the 'fortress Australia' model was highly successful for several decades, it became anachronistic by the 1960s and untenable by the 1980s.<sup>43</sup> Other advanced countries were signing up to the GATT and reducing tariffs on manufactured goods. Then, from the 1970s, the value of Australia's primary product exports relative to the country's manufactured imports started to languish. The result was rising current account deficits, showing that Australia was failing to earn enough to cover its import costs. At one point, the Labor government's treasurer, Paul Keating, declared that Australia was at risk of becoming a 'banana republic' if the slide was not averted.<sup>44</sup> Government control of the Australian dollar's exchange rate with overseas currencies had only recently been removed, and market sentiment was decreasing the dollar's value by the minute in response to Australia's poor trade performance.

Almost all elements of the fortress Australia model have been dismantled, with much of the reform being introduced under the Hawke–Keating Labor governments that held office from 1983 to 1996. Extensive privatisations of major government-owned businesses, the progressive removal of protective tariffs, liberalisation of the wage bargaining system, introduction of National Competition Policy and a variety of other reforms shifted the balance much more towards an open market economy.<sup>45</sup> This was controversial at times and a focus of ideological debate.<sup>46</sup> However, it has been credited with underpinning the extraordinarily strong performance of the Australian economy in the last quarter of a century – 'the longest unbroken period of economic expansion of any developed country ever'.<sup>47</sup>

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40 Butlin, Barnard and Pincus 1982; White 1992.

41 Castles 1988, 93.

42 Kelly 1992. See also Fenna 2012.

43 Fenna 2013b.

44 Kelly 1992, 196–7.

45 Borland 2015; Fenna 2019.

46 Fenna 2013b.

47 Garnaut 2013, 5. For a contrary view, see Cahill and Toner 2018.

The end of protectionism exposed Australia's extensive manufacturing sector just as globalisation was increasing the quality, quantity and competitiveness of overseas manufacturers. A range of *industrial policy* initiatives sought at first to assist with the necessary restructuring, but in the end many firms, and indeed entire industries, shut down. This was particularly the case in the labour-intensive textile, clothing and footwear sectors, where advanced countries struggled to compete against Asian manufacturing at the best of times, and in the 'metal bashing' industries such as whitegoods and motor vehicles. In 2017, Australia's last car manufacturer closed its doors, and an industry that had begun with great fanfare in 1949 came to an end. Australia still manufactures sophisticated industrial goods as well as some traditional core industrial goods, such as steel. However, manufacturing now contributes only a small part of Australia's overall GDP, and even then, what is officially counted as 'manufacturing' is often merely the processing of primary materials.

#### *Back to the future*

The difficulties of a declining manufacturing sector prompted questions about why governments were not pursuing more imaginative and ambitious industry policy.<sup>48</sup> However, the need for active intervention to promote manufacturing was swept aside by the extraordinary recovery in Australia's traditional area of comparative advantage that occurred from 2004. After a long period of stagnation or decline in the 'terms of trade' (the value of one's exports versus the cost of one's imports), Australia's mineral wealth suddenly became the road to riches again with the mining boom. Other than requirements for local construction of major new defence acquisitions, such as submarines and destroyers, there remains little by way of national industrial policy in Australia. That is likely to remain the case for as long as Australia continues to prosper from its agricultural and natural resource wealth.

#### *Trade agreements in lieu*

In this context, it is not surprising that Australian governments have seen *trade agreements* as the way forward. Trade agreements are, in some ways, the industrial policy you have when you are not having an industrial policy – supporting local industry by enhancing its access to larger markets, but nothing else. Again, ideology plays a role here, with the tendency to equate industrial policy with trade policy being stronger on the Coalition than Labor side of politics.<sup>49</sup> As we noted earlier, Australia was reluctant to participate in the GATT process of multilateral tariff reduction that was such a large part of global economic relations in the 1950s and 1960s.<sup>50</sup> Australia's recently developed manufacturing sector was seen as too

48 Bentley and West 2016; Fenna 2016a; Fenna 2016b; Phillimore and Leong 2017; Stewart 2016.

49 Thurbon 2017.

50 Snape 1984.

fragile to face the world without tariff protection and, at the same time, the GATT was offering no reduction in tariffs for the goods that Australia could export competitively – agricultural products.

Australia is now a full participant in the WTO, the GATT's successor; however, most trade policy attention in recent times has been on *preferential trade agreements*. These are typically bilateral, rather than multilateral. Australia controversially entered into a bilateral free trade agreement with the USA that took effect in 2005. Since then, it has negotiated arrangements with individual Asian countries, such as Korea, Japan, China and Indonesia, and entered into the multilateral 'Trans-Pacific Partnership'.<sup>51</sup> The prospect of 'Brexit' – the UK's departure from the European Union – has led, in turn, to moves towards separate trade agreements with the EU and the UK.

Trade agreements liberalise trade between participating countries, but, at the same time, inevitably involve elements that tie the hands of participating governments in terms of how much support they can give their domestic firms. Governments might also exaggerate those limitations as a pretext for inaction on industrial policy.<sup>52</sup>

## Conclusions

Economic policy lies at the heart of what government does, and no government can survive for long if the economy is not performing. Through a combination of demand- and supply-side measures, governments engage in *macroeconomic* management to maintain rates of growth that will keep unemployment to a minimum. At the same time, they also have to be wary about the danger of inflation. Ideally, a combination of low interest rates and increased spending and/or decreased taxation would increase effective demand and thus stimulate economic growth when the economy was slowing. And ideally a combination of rising interest rates and decreased spending and/or increased taxation would 'cool' the economy when it was in danger of 'overheating'. Ideally, too, any debt accumulated as a result of deficits incurred when trying to stimulate the economy would be paid down by equivalent surpluses achieved during the good times. At the same time, it must be remembered that this is a gross simplification of a very complex reality, where countless other factors intrude, including debates in economic theory, the overlap between economics and ideology, the intersection between economic policy and other policy areas, and the interaction between the domestic and the international economies.

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51 The Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which came into effect in late 2018 after the USA had controversially withdrawn from the original agreement.

52 Thurbon 2016.



And that's just macroeconomic policy. As discussed on at the end of this chapter, governments also have economic responsibilities of a more structural nature, concerning the operation of specific markets, the path of economic development and the industrial focus and international competitiveness of the economy. These *microeconomic* issues confront policy makers with a fundamental question of whether market forces should generally dominate or whether government should seek to play a strategic role. The latter requires considerable political will and entails a number of difficult questions about what tools and approaches work best to foster innovation, retain and promote investment and achieve export success.

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# Environmental policy

Brian Coffey

## Key terms/names

Adani, causal stories, developmentalism, ecocentrism/ecologism, Franklin River, Indigenous Australians, irreversibility, Murray Darling Basin, non-government organisations, resources, sustainability, tragedy of the commons, web of life

Environmental policy is a highly contested, critically important, and intellectually interesting area of politics and policy. Environmental policy not only concerns the relations between people and the forms of social co-ordination that they create (i.e. the relations between states, markets and civil society) but also concerns the fundamental relations between humans and other species (what is our place in the web of life). Environmental policy re-energises the age-old question of ‘How should we live?’ by reframing it as ‘How should we live on this planet, in ways that sustain it, others, and ourselves?’ Put another way, environmental policy is important because everything that we do as humans (as individuals, as employees of companies, as consumers of goods and services, as members of a community, as citizens of a country, and as inhabitants of planet earth) directly or indirectly has environmental implications – we are part of nature and rely on it to survive.

A good example of the connection between how we live and the environment can be seen at a very simple level. At a local level, have you ever considered the environmental implications of something as simple as washing your face? First, where does the water come from, how is it treated, and what is involved in getting it to your tap? Second, how often do you wash your face and what with (what packaging

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does it come in, and how is it disposed of), what ingredients are in the cleanser, where was it manufactured, where did you buy it, and how did you get it home? Third, how is the ‘waste’ water disposed of, where does it go, and with what effects? (e.g. microplastics in cleaners may end up in the stomachs of fish and other marine life.) By contrast, the issue of coal mines raises more obvious questions regarding our relationship with the environment. The proposal by the company Adani to develop a coal mine in central Queensland has attracted considerable opposition in terms of both the local (possible impacts on water systems and some native species such as the black-throated finch) and global (greenhouse gas emissions associated with the burning of the coal extracted) consequences of the mine.

#### Origins of the policy domain

While our relationship with the environment and how human behaviours impact the environment may seem more commonplace in contemporary society, environmental policy is a relatively new phenomenon. What we now know of as ‘environmental policy’ only emerged as a significant, and distinct, field of public policy interest since the late 1960s.<sup>1</sup> Influential books such as Rachel Carson’s *Silent Spring*<sup>2</sup> contributed to raising public awareness about the environmental consequences of human activities, and the emergence of the environmental movement provided a political constituency around which concern about environmental issues was mobilised.<sup>3</sup> Many of the major environmental non-government organisations, such as Greenpeace and Friends of the Earth, have their origins in the late 1960s and early 1970s. Further, it is important to realise that environmental thought contains threads from many different intellectual traditions,<sup>4</sup> and that major political ideologies, such as liberalism, conservatism, Marxism and anarchism, have developed their particular perspectives on the politics of the environment.<sup>5</sup> A distinctly ‘green’ political ideology – ecocentrism (aka ecologism) – has also emerged in recent decades.<sup>6</sup>

Significant shifts in environmental policy debate and practice have occurred during a period of major technological, social, political and economic change. The widespread influence of neoliberalism and the development of information and biological technologies go hand in hand with increasing knowledge of human impact on the environment. Scientific knowledge now provides abundant evidence about the impacts of human activities as demonstrated by issues such as biodiversity decline, climate change and the pervasive spread of plastics in the

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1 Dryzek 2012.

2 Carson 1962.

3 Doyle, McEachern and MacGregor 2016.

4 Hay 2002.

5 Hay 1988.

6 Dobson 1992; Eckersley 1992.

environment.<sup>7</sup> Alongside these concerns is the necessity of better meeting the development needs of the marginalised and disadvantaged people living in Africa, South America and Asia, as well as in Western societies.

Within this broad context, environmental policy debate revolves around widely divergent views about how serious environmental issues are, why they are important, what has caused them, and what may need to be done to address them. What is at stake are competing conceptualisations of the 'proper' relationships between humans and the non-human world and between humans and other humans, which have profoundly important implications for how the environment is governed.

This chapter explores these issues and draws on Australian examples. The chapter proceeds as follows: Section 1 provides a brief overview of what is at stake in environmental policy debate; Section 2 considers some of the major actors involved in Australian environmental policy; Section 3 explains the place of the environment in Australia's federal system of government; and Section 4 highlights some areas of ongoing debate/non-debate.

#### Understanding what is at stake in environmental policy debate

Environmental policy is challenging! According to leading international policy scholar B. Guy Peters, environmental policy is characterised as politically and technically complex.<sup>8</sup> Reflecting this, Stephen Dovers proposed that environmental issues have attributes which make them particularly challenging for policy makers, namely: temporal scale (issues emerge over time and responses may take time to work); spatial scale (what happens in one place can affect somewhere else); limits (irreversibility – extinction is forever); urgency (timely responses can be critical); connectivity and complexity (ecological and biophysical systems are complex and connected – e.g. water cycles); uncertainty (there will never be complete certainty); cumulation (some issues are like 'the straw that breaks the camel's back' or 'death by a thousand cuts', where a large number of small actions can have large consequences); moral and ethical dimensions (they involve important philosophical questions about who or what is worthy of consideration); and novelty (humanity hasn't faced the kinds of questions that we now face – e.g. major climate change). For Dovers, these attributes matter because:

Existing processes, which have evolved around problems that do not as commonly display these attributes, can be suspected to have limited ability in coping with problems that do [such that] the shortcomings of current responses to sustainability have a structural basis, being the products of unsuitable processes.<sup>9</sup>

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7 Crowley and Walker 2012.

8 Peters 2015, 24.

9 Dovers 1996, 313.

Dovers suggests that such responses result in policy being ‘ad hoc’ and exhibiting ‘policy amnesia’, which means that policy making is not systematic and policy learning does not occur.

According to Carter, environmental issues have seven core characteristics that distinguish them as policy problems, as summarised in Table 1. In broad terms, these views are informed by the understanding that humans are dependent upon nature for their survival and that ecological systems and processes do not conform with human boundaries.<sup>10</sup>

To provide insight into how these complexities play out in environmental policy debate, this section sketches some of the types of responses that can be made to simple questions (which feature – implicitly or explicitly – in all environmental debate) such as:

- What is the nature of ‘nature’ and the ‘environment’?
- Why should we be concerned about the environment?
- What is the cause of environmental problems (and who is responsible)?
- What should be done about them?

Considering these questions, and their associated responses, helps to identify the ways in which different ideas about the environment and environmental policy are made tangible in political debate. Importantly the different responses are associated with different interests, and so are inherently political, and have implications for the types of responses put into place.

#### *Perspectives on ‘nature’ and the ‘environment’*

Appreciating the different ways in which ‘nature’ or ‘environment’ can be represented is critical for understanding environmental policy. For some people, the environment is simply ‘our surroundings’, which means that our cities, suburbs and homes are part of ‘the environment’. Similarly, nature is often considered to be anything that is non-human, but, as we are mammals, we are also part of nature. In other words, it can be difficult to conclusively separate us from nature. A good example is that our survival requires the presence of beneficial stomach bacteria which call our bodies home. For the purposes of this chapter, it is enough to simply illustrate some of the many ways in which ‘nature’ and ‘the environment’ can be understood, and to highlight that these are often deeply ingrained, and so frequently taken for granted.

In terms of ‘nature’, environmental historian William Cronon considers that ‘the natural world is far more dynamic, far more changeable, and far more tangled with human history than popular beliefs about the “balance of nature” have typically acknowledged’ and that ‘nature is not nearly so natural as it seems’.<sup>11</sup> For example, viewing nature as ‘Edenic’ portrays it as something that is pure and

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<sup>10</sup> Carter 2018.

<sup>11</sup> Cronon 1996, 24–5.



**Table 1 Core characteristics of environmental problems**

| Characteristic                   | Description  |
|----------------------------------|--|
| Public goods                     | Many environmental resources can be described as public goods, whereby one person's consumption of the good does not impact upon another person's (e.g. clean air).  |
| Transboundary problems           | Environmental systems and environmental problems cross administrative boundaries (e.g. migratory species, water catchments, climate change, marine pollution).   |
| Complexity and uncertainty       | Ecological and biophysical systems are complex, as captured in the phrase 'the web of life'. In nature everything is connected, but this makes it difficult, if not impossible, to know exactly how it works or what might happen.   |
| Irreversibility                  | Species extinction is forever, and non-renewable resources can be exhausted.   |
| Temporal and spatial variability | Impacts may not be experienced immediately, or in the place where they are caused (e.g. the hole in the ozone layer and the effects of acid rain are spatially and temporally displaced, which means the people who cause the problem may not be the ones who suffer from it). |
| Administrative fragmentation     | Different departments have different responsibilities, which means that the activities of some departments can impact negatively (or in some cases positively) on the portfolio responsibilities of others.  |
| Regulatory intervention          | Addressing environmental issues can impose costs on those causing the problem.   |

Source: compiled from Carter 2018.

perfect. Clearly, such a view would be unlikely to be held by people who experience natural disasters such as earthquakes, floods and droughts.

In relation to the 'environment', Barry identifies four 'environments': wilderness, countryside/garden, urban environment, and global environment.<sup>12</sup> These suggest that the environment can be partitioned in different ways for different purposes. These kinds of themes are evident in a study by Coffey, whose investigation of national park policy and management in Victoria, Australia, revealed nature variously thought of as: something to be managed; something to be improved upon; a frontier or source of adventure; Eden; and a source of balance, calmness and

<sup>12</sup> Barry 1999.

harmony. For Coffey, these representations, which were associated with neoliberal-inspired reforms to national park management, were evidence of a commodification of nature, whereby 'nature was portrayed in ways which targeted consumers for whom a visit to national parks had become synonymous with a recuperative respite from urban life'.<sup>13</sup>

This raises the question about where the environment begins and ends: for example, are suburban backyards or nature strips part of the environment? Further, the environment is often considered simply as a 'resource' which is there solely for the benefit of humans. It is very commonplace to hear waterways, forest ecosystems, landscapes and minerals considered simply as natural resources, which brackets and therefore minimises consideration of important ecological (e.g. rare and endangered species) and cultural (e.g. Indigenous cultural heritage) factors. In effect, positioning the environment as a resource privileges economic value over the intrinsic 'value' of the environment. In other words, it assumes the only thing that matters is whether or not someone can make money out of them. Such viewpoints are often a feature of debates about mining in Australia, where proponents may emphasise the revenue to be gained from selling gold, coal, bauxite, iron ore, or some other mineral, while overlooking the other 'values' associated with the site.

More conceptually, there is interest in 'social-nature', which can be understood as a perspective that seeks to break down the barriers between 'nature' and 'culture', and which instead focuses attention on the various ways in which humans influence how we might conceptualise nature and how nature might influence humans.<sup>14</sup> Relatedly, given the longstanding relationship between Indigenous Australians and the environment,<sup>15</sup> it is critically important that their knowledge and deep cultural connection to country is given due consideration in environmental debate.

Clearly, there are many ways of understanding and categorising the world in which we live, and our place in it, each with strengths and weaknesses. Politically, views about nature and the environment are enlisted in particular ways to either promote or marginalise environmental concerns. Some of these diverse understandings and perspectives are clearly summarised in the work of Dryzek, who identifies and discusses nine different overarching approaches to environmental issues, as summarised in Table 2.<sup>16</sup>

### *Why care about it?*

Peoples' concern for the environment may be informed by diverse motivations, which reflect different philosophical foundations.<sup>17</sup> For this discussion it is sufficient to highlight five broad sources of environmental concern discussed by Eckersley

13 Coffey 2001, 75.

14 Lockie 2004.

15 Gammage 2012; Pascoe 2014.

16 Dryzek 2012.

17 Fox 1990.

**Table 2 Major environmental discourses**

| <b>Limits to growth and their denial</b>   | <b>Problem solving approaches</b>  |
|--|--|
| <i>Looming tragedy</i> : Survivalism (limits to growth)  | <i>Administrative rationalism</i> : Leave it to the experts (technocratic)   |
| <i>Growth forever</i> : The Promethean response (infinite growth)                              | <i>Democratic pragmatism</i> : Leave it to the people (mainstream democracy) |
|  | <i>Economic rationalism</i> : Leave it to the market (neoliberalism)         |
| <b>The quest for sustainability</b>  | <b>Green radicalism</b>  |
| <i>Sustainable development</i> : Environmentally benign growth (having our cake and eating it) | <i>Changing people</i> : Green consciousness (deep ecology)                  |
| <i>Ecological modernisation</i> : Industrial society and beyond (pollution prevention pays)    | <i>Changing society</i> : Green politics (social ecology)                    |

Source: compiled from Dryzek 2012.

and summarised in Table 3. Debates around whether or not native animals (e.g. kangaroos) should be used for human consumption illustrate why it is important to be aware of the diverse philosophical motivations underpinning the different arguments being made. For example, resource conservationists may support human consumption of kangaroo meat (it would be wasteful not to eat them), animal liberationists may oppose culling (on the basis of animal rights), while some ecologists may not oppose human consumption of kangaroo meat because kangaroo farming may be less ecologically damaging than grazing sheep.

In recent years there has been growing use of the concept of ecosystem services (which encompasses the resource conservation, preservation, and human welfare ecological positions). This is illustrated in the United Nations (UN) sanctioned Millennium Ecosystems Assessment, where ecosystems services are considered as the benefits people obtain from ecosystems, with these benefits encompassing provisioning services (food and fibre); regulating services (floods, drought); supporting services (soil formation and nutrient cycling); and cultural services (recreational, spiritual, religious and other non-material benefits).<sup>18</sup> However, a number of authors critique the use of 'ecosystems services' and associated economic terminology because these terms frame nature narrowly and serve to commoditise the way in which we understand and govern the world in which we live and share with other species.<sup>19</sup>

<sup>18</sup> Millennium Ecosystem Assessment 2005.

<sup>19</sup> Coffey 2016; Sullivan 2016; Turnhout et al. 2013.

**Table 3 Sources of environmental concern**

| Approach              | Major characteristics  |
|-----------------------|--|
| Resource conservation | Resources should be used efficiently because it is wrong to be wasteful.   |
| Preservationism       | Parts of the environment are unique, inspire awe, or are highly aesthetic and should be protected from development.                                      |
| Human welfare ecology | The environment provides us with goods and services and therefore it is in our own long-term self-interest to look after it (enlightened self-interest). |
| Animal liberation     | If animals can feel pain or suffer, then we have no moral right to cause them harm.  |
| Ecocentrism           | The various multi-layered parts of the biotic community are valuable for their own sake.   |

Source: compiled from Eckersley 1992.

Clearly, having an appreciation of different sources of environmental concern provides insight into the motivations informing different perspectives in environmental debate. This is important because environmental conflict frequently involves debates about competing philosophical positions, and the desirability of different responses. For example, approaches to biodiversity management will vary depending upon whether decision making is informed by a ‘hands off’ (resource preservationist) approach or a ‘wise use’ (resource conservationist) approach. Further, debates about the live export of sheep and cattle or the culling of native animals are more concerned with issues of animal rights than they are with ecocentrism.

What causes environmental problems?

Another important element of environmental policy debate concerns the ‘identification’ of the cause, or causes, of environmental problems. For Stone, such debates involve competing ‘causal stories’ which means that part of what is at stake in political debate about environmental issues is what is considered to be the cause of the problem: identification of the cause of the environmental issues is as much political as it is technical.<sup>20</sup>

<sup>20</sup> Stone 1989.

At a systemic level, environmental degradation has been attributed to factors such as overpopulation, technology, production and consumption, Western science and patriarchy, and the Judeo-Christian tradition. Paterson's analysis of international relations literature discusses some of the different 'causes' of global environmental issues identified and the implications of these different framings for the types of solutions advocated. For example: *liberal institutionalists* see global environmental issues as being caused by an inter-state 'tragedy of the commons'<sup>21</sup> with no systematic pattern of winners and losers, with these issues able to be addressed through the building of international institutions. *Realists* see discrete trends such as population growth or technology as the cause, with these amenable to solution through a focus on security. *Eco-socialists* see capital accumulation as the cause of global environmental issues, with the solution being the overthrow of capitalism. *Deep ecologists* have philosophical outlooks which see the domination of nature as being the cause, with their response being grassroots resistance to create decentralised, egalitarian, self-reliant communities.<sup>22</sup>

Further, Caldwell identified three different ways in which environmental problems can be interpreted as a political issue. First, environmental disruptions can be seen as accidents or miscalculations and thus amenable to admonition, education, indoctrination and a few legal sanctions such as anti-litter laws (which may be amenable to incremental responses). Second, environmental problems can be seen as largely inadvertent but caused by inadequate or inappropriate organisation and management of economic and public affairs (which can be amenable to operational responses). Third, environmental issues can be seen as a direct consequence of the socio-economic systems currently in operation (which require systemic responses).<sup>23</sup>

Responsibility for environmental problems can also be assigned to individuals, groups and organisations, such as past and present governments, the failings of bureaucracy, or the operations of particular businesses or industry sectors. For example, Coffey and Marston explored how the causes of environmental issues were represented in a sustainability framework developed by the Victorian government in 2005. Their analysis showed that the Victorian government placed the primary responsibility for Victoria's environmental challenges on the everyday choices made by Victorians, rather than the policy settings established by governments or the activities of industry and business.<sup>24</sup>

Clearly, how the causes of environmental problems are interpreted influences how environmental problems are understood. Analyses of environmental policy therefore need to be alert to the implications of different causal stories, because of

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21 Hardin 1968. The notion of 'the tragedy of the commons' was popularised in an article by Garrett Hardin. In broad terms, it suggests that the pursuit of rational self-interest may produce collectively irrational outcomes. For example, overfishing of global fish stocks.

22 Paterson 2001, 4.

23 Caldwell 1993.

24 Coffey and Marston 2013.

the way in which they focus attention and enable and constrain the possibilities for taking action. For example, economic interests will seek to have environmental issues defined in ways that avoid them being blamed, whereas environmental interests will seek to define issues in ways that emphasise the need for greater priority to be given to environmental objectives.

*What should be done, and by whom?*

Environmental issues also involve debate around what should be done and by whom. At its simplest, such debates centre on what type of policy instrument, or instruments, should be used to address an issue. Policy instruments are ways in which governments take action and may involve:

- *Advocacy*: advocating for something or providing information and advice to inform and educate people
- *Networks*: bringing people together to develop collective responses
- *Money*: spending and taxing
- *Government action*: direct provision of services and infrastructure by government
- *Law*: regulation.<sup>25</sup>

For example, reducing water consumption in cities during times of drought may be achieved by: encouraging people to take shorter showers and turn off dripping taps (advocacy); charging people according to how much water they use or providing subsidies for the installation of water tanks and other water-saving devices (money); introducing water restrictions so that people are no longer allowed to water their lawns using sprinklers or wash their cars using a hose (regulation); or constructing a water desalination plant to produce fresh water (direct provision). There is also considerable debate about the merits or otherwise of regulation, subsidies, carbon taxes and emissions trading as preferred mechanisms to manage greenhouse gas emissions. In such debates, economists are likely to advocate for market-oriented approaches and ‘user pays’, while welfare advocates may advocate for subsidies, regulation and information-oriented approaches. Importantly, ideological underpinnings inform policy actors’ views about the merits or otherwise of different policy tools, even if they deny this is the case.

Environmental policy debate is also concerned with how much change is required, as is illustrated in the three types of responses – incremental, operational and systemic – identified by Caldwell.<sup>26</sup> An analysis of policy change in the UK under the Thatcher government by Peter Hall provides a similarly useful framework. It focuses on three distinct kinds of policy change:

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<sup>25</sup> Althaus, Bridgman and Davis 2018.

<sup>26</sup> Caldwell 1993.

- *First order change*: policy instrument settings are changed in light of experience and new knowledge, while overall policy goals and instruments of policy remain the same
- *Second order change*: the instruments of policy as well as their settings are altered in responses to experience although the overall goals of policy remain the same
- *Third order change*: a simultaneous change in all three components of policy: the instrument settings, the instruments themselves, and the hierarchy of goals behind policy.<sup>27</sup>

Drawing on this typology, Carter suggests that ‘although incremental changes in environmental policy are possible within the traditional paradigm [i.e. incremental approaches to policy] an accumulation of first and second order changes will not automatically lead to third order change, because genuinely radical change requires the replacement of the traditional policy paradigm with an alternative.’<sup>28</sup> Debates about what should be done also inevitably involve debates about who should be doing it. In broad terms, in recent decades the relative roles and responsibilities of government (the institutions of the state), the private sector (private companies and industry sectors) and the community (the general public or members of particular groups or communities) have attracted considerable attention.<sup>29</sup>

In relation to government and the broad apparatus of the state, central questions relate to the role and capacity of government (and the state) in dealing with environmental issues. Views about the role and capacity of the state are contested.<sup>30</sup> There are questions about the disposition of governments to intervene in policy matters, as highlighted by debates between Keynesian and neo-classical economic perspectives on the role of government.<sup>31</sup> However, there are limitations in using these terms in discussing the role of government in environmental policy issues, as they both remain wedded to promoting economic growth, and only differ in terms of the role of government. By contrast, some environmentally oriented economists highlight the need for government to encourage a shift beyond the paradigm of economic growth.<sup>32</sup>

The ‘public’ may also occupy various roles in relation to environmental matters and can be viewed as either consumers (where their only form of agency is through spending decisions), or citizens (where people have important rights and responsibilities within democracy).<sup>33</sup> Finally, the role of the private sector in environmental matters is also subject to considerable debate, with a central issue being whether

27 Hall 1993, 278–9.

28 Carter 2018, 196.

29 Rhodes 1997.

30 Marsh, Smith and Hothi 2006.

31 Fenna 2004.

32 Jackson 2009.

33 Dobson 2003; Latta 2007.

business is ‘part of the problem’ or ‘part of the solution’. Business is often viewed as central to economic growth, and hence the cause, or at least part of the cause, of environmental problems, although some people consider the potential role of business positively (e.g. free market environmentalists).

#### Actors and politics of the domain

Given the diversity of environmental issues (e.g. biodiversity decline, climate change, water pollution, water quantity, air quality, soil erosion, invasive species, toxic waste, microplastics, etc.) and the range of levels at which environmental policy debate occurs (e.g. local, regional, state, national, international and global) it should come as no surprise that environmental issues involve a diverse and dynamic range of ‘policy actors’, where policy actors are understood as ‘any individual or group able to take action on a public problem or issue.’<sup>34</sup> Effectively every person, individually or as part of a group, has the potential to inform environmental policy debate. Within the context of Australian environmental policy, Table 4 illustrates some of the actors involved.

This diverse range of policy actors, particularly non-government organisations (NGOs) and think tanks, not only occupy different niches within the environmental policy ecosystem, they also draw on diverse resources (e.g. economic power, information and expertise, capacity to mobilise people or attract attention) and deploy, either willingly or by necessity, particular strategies<sup>35</sup> in their efforts to shape environmental policy. For example, NGOs may seek to influence policy using direct and indirect strategies. Contacting a relevant minister or public servant, making a submission to an inquiry, or responding to a call for comment are direct forms of influence, while contacting reporters, writing letters to the editor, arranging strikes or marches, or holding public meetings and so forth are indirect ways to influence policy actors.

One thing to note is that environmental policy debate is not the sole preserve of ‘environmentalists’. Many policy actors with sectional/sectoral interests are also actively involved, and arguably in many instances are substantively more influential in shaping environmental policy. This would seem to be the case with respect to Australia’s policy position on climate change. High-profile contributions from Clive Hamilton<sup>36</sup> and Guy Pearse<sup>37</sup> identify various actors that they see as having played a noteworthy role in shaping climate-change debate and policy in Australia.

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34 Considine 1994, 6.

35 Binderkrantz 2005.

36 Hamilton 2007.

37 Pearse 2007.



**Table 4 Overview of policy actors involved in Australian environmental policy debate**

| Type of actor   | Examples   |
|---|--|
| Elected officials   | <p>Members of parliament in federal, state, and territory parliaments, who may occupy roles in government (prime minister, minister, backbencher) or opposition (e.g. shadow minister, etc.). At June 2019 the federal minister for the environment was the Hon. Susan Ley MP. Members of parliament may be elected to either the lower or upper house in their jurisdiction (Queensland only has a lower house).</p> <p>Local government councillors.</p>   |
| Appointed officials   | <p>Ministerial advisers and electorate officers are appointed to support members of parliament.</p> <p>Public servants undertake policy, planning, management and service delivery roles in public organisations including federal, state and local government departments (e.g. environment departments) and statutory bodies (e.g. environment protection agencies).</p> <p>Judges (although formally their role is to adjudicate on legal matters rather than make law) appointed to various courts are sometimes called upon to adjudicate on environmental matters brought before their courts. For example, in 1983 the High Court considered the constitutional validity of federal laws introduced to protect the world heritage values of the Franklin River.</p> |
| Political parties   | <p>Political parties generally exist to get candidates elected.</p> <p>Established political parties include the Liberal Party, Labor Party, National Party, and the Greens.</p> <p>Other ‘minor’ parties include Pauline Hanson’s One Nation, the Shooters, Fishers and Farmers Party, and the Sustainable Australia Party.</p>   |
| Non-government organisations (including interest groups, industry associations, and trade unions) | <p>Non-government organisations represent the interests of their members, and seek to influence policy rather than be elected to parliament.</p> <p>Prominent environmental interest groups include the Australian Conservation Foundation, Wilderness Society, Friends of the Earth, and World Wildlife Fund. Such groups are often viewed as promotional as they tend to promote some general agenda.</p> <p>Prominent national industry associations include the Business Council of Australia, Minerals Council of Australia, National Farmers’ Federation, National Association of Forest Industries, Australian</p>  |

| Type of actor                          | Examples   |
|--|--|
|  | <p>Beverages Council, and Australian Food and Grocery Council. Such groups are often viewed as sectional as they tend to promote their sectional interests.</p> <p>Prominent national trade unions include the Australian Council of Trade Unions (which is the peak body for the union movement), and the Construction, Forestry, Maritime, Mining and Energy Union, and the Electrical Trades Union.</p>   |
| Think tanks and research organisations | <p>Think tanks are understood as independent organisations (i.e. non-government) who seek to influence policy through the provision of ideas, information and research, although specific think tanks are often aligned with a particular perspective on policy matters.</p> <p>Think tanks include the Institute of Public Affairs, Grattan Institute, Australia Institute, and Centre for Independent Studies.</p> <p>Some think tanks are also established as research centres at universities.</p> |
| Media                                  | <p>The role of the media is generally understood as a mechanism for informing debate and holding policy makers to account, and so has an important role in environmental policy debate.</p> <p>The actual contribution of the media in environmental policy debate is contested, as evident from debates about the influence of the Murdoch-owned media on climate change debate.</p> <p>There is also considerable debate about the contribution of new forms of media to environmental policy.</p>   |
| Grassroots groups                      | <p>People get involved in environmental policy debate as individuals and as part of small informal grassroot campaigns, such as campaigns for the protection or enhancement of locally significant sites.</p>  |

How is environmental policy made in Australia?

Australia's Constitution provides the formal institutional context within which environmental policy is made. The first thing to appreciate about this is that there is no explicit head of power in our Constitution, which formally articulates the role of the federal government in environmental matters. This is because state governments existed before Australia (as a nation) existed and negotiations to establish the Commonwealth resulted in the federal level of government only being granted specific powers (these powers are specified in section 51 of the Australian Constitution).

By contrast, state governments create the basic legislative settings relating to development, such as land tenure, planning schemes, primary industries, public utilities and the environment; for example, national parks legislation. Hence, many environmental policy decisions are made at the state level within decision-making processes established by the state government.

Nonetheless, the federal government has come to have considerable influence on environmental matters, should it choose to exert itself, by virtue of its dominant financial position (termed the vertical fiscal imbalance), and decisions by the High Court. In effect, a range of strategies have increased the reach of the federal government on environmental matters, through levers such as the powers over external affairs, foreign investment, and corporations. In this context, Buhrs and Christoff argue that:

Over the past three decades the Commonwealth government has gained greater formal control over environmental protection and resource development through the Constitution's powers relating to external affairs. These enable national laws enacting treaties including international environmental agreements to 'override' the States. But, the States retain the capacity for policy implementation, and therefore real influence in these matters largely remains with them.<sup>38</sup>

However, the federal government's willingness to exert influence has waxed and waned since the 1980s when there was considerable conflict between the federal government and subnational governments over issues such as the proposed damming of the Franklin River and protection of wet tropical rainforests in Far North Queensland. An Intergovernmental Agreement on the Environment was negotiated in the early 1990s as a way to improve intergovernmental consideration of environmental issues (including through Ministerial Council processes). In addition, a significant attempt was made to establish a national strategy for ecologically sustainable development (NSED) in the early 1990s, although it is clear that much more could have been achieved.<sup>39</sup>

Importantly, Australia's federal system of government may not be the sole, or even primary, cause of Australia's inability to make effective national environmental policy. While challenges such as those associated with the Murray Darling Basin Plan, the lack of a coherent national waste strategy and the absence of a nationally coherent policy on energy (and climate change) point to the role of government and politics, further factors must also be considered. For example, the scarcity of effective environmental policy may be due as much to the influence of economic interests such as policy actors advocating for the interests of industries as it is to the features of Australia's federal system of government.

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38 Buhrs and Christoff 2006, 235.

39 Curran 2015; Hollander 2015; Macintosh 2015.

Another feature of environmental policy making in Australia is that each state has a relatively unique approach to local government, and there is no recognition of local government in the Constitution. This shapes the ways that council-level environmental issues play out, with the major tensions being between state and local governments.<sup>40</sup> Put simply, local governments are the creature of state government, and so state governments determine what roles and responsibilities are granted to local government: for example, in Queensland the Brisbane City Council has a role in water management, whereas in Melbourne it is primarily managed by Melbourne Water and various government-owned water retailers.

Environmental policy in Australia is also influenced by the ways in which the federal government participates in international negotiations and processes, such as those dealing with climate change (the UN Framework Convention on Climate Change) and biodiversity (the Convention on Biological Diversity, and other treaties dealing with migratory species, wetlands of international importance, and ozone depleting substances). Australia's contribution to such processes varies considerably depending upon the orientation of the government in office at the time. This variation in commitment to being a 'good global citizen' is clearly captured in both the title of an article by Christoff, 'From Global Citizen to Renegade State: Australia at Kyoto', and the vignette used to begin the article:

In 1992, Australia was one of the most progressive advocates of the UN Framework Convention on Climate Change (FCCC), so much so that at the Earth Summit in Rio de Janeiro Ros Kelly, then Labor Minister for Environment, almost signed in place of Afghanistan in her enthusiasm to see Australia become the first of some 160 signatories to the multilateral Convention. Yet merely five years later, by the Third Conference of the Parties (COP-3) held in Kyoto from 1–11 December 1997, Australia distinguished itself by refusing to accept binding greenhouse gas emissions reduction targets and by pushing for a mandate to increase its emissions by up to 18 per cent.<sup>41</sup>

More recently, Australia's inability to submit its national progress report on biodiversity to the UN Convention on Biological Diversity by the required due date provides a further example of Australia's retreat from being a good global citizen.<sup>42</sup>

Environmental policy making in Australia involves diverse issues and actors and plays out in multiple settings with inconsistent results. Given this, it is not possible to provide any simple explanation of how environmental policy is made in Australia, beyond stating that it is political and involves particular actors advocating particular ideas, through particular processes, in particular circum-

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40 Thomas 2010.

41 Christoff 1998, 113.

42 Haslam 2019.

stances: the devil really is in the detail, and this is why detailed analyses of different issues is so useful.

*Debates and non-agenda issues*

Environmental policy debate in Australia is almost invariably couched in terms of development versus the environment, which serves to frame environmental debate in a very narrow and conflictual way – you are either ‘pro’ or ‘anti’ development, there are no shades of grey. Useful insights into how these terms of debate play out in particular cases are well canvassed in a variety of edited collections.<sup>43</sup> Read together these collections provide excellent introductions to the major lines of debate and non-debate that animate the politics of the environment in Australia, with useful coverage of issues such as climate change, the Murray Darling Basin, natural resource management, forest conflict, and coastal management, to name but a few.

Two clear themes from this literature are particularly worth noting because they highlight recurring issues. First is Walker’s notion of ‘statist developmentalism’<sup>44</sup> which he considers is both a ‘state of mind’ and a ‘development strategy’ in that:

It embodies the assumptions that ‘development’ is (1) imperative, (2) popular, and (3) has self-evident advantages [which] ignores evidence that development damages ecologies and diminishes amenity for the population at large [and instead] assumes that ecologically rational policies will be costly and will eliminate jobs.<sup>45</sup>

Walker’s accounts explore the dominance of ‘statist developmentalism’ in Australia from the First Fleet through to the recent times. Statist developmentalism is still alive and well, if recent debates about the Adani mine and other mines in the Galilee Basin are any indication.

Second is Dovers’ view that Australian environmental policy suffers from policy ‘ad hockery’ and amnesia, the idea that ‘what we do at a given time often appears uninformed by previous experiences, and often, previous policy and management attempts are not even recognised’.<sup>46</sup> This highlights that it is not possible to consider environmental policy making in Australia as proactive or systematic in any way. Even worse is the sense that this ‘forgetfulness’ may not be accidental but may instead be part and parcel of statist developmentalism. Such an interpretation is supported by the fact that many of Australia’s environmental achievements (e.g. halting sandmining and logging on Fraser Island, preventing

43 Such as Crowley and Walker 2012, Dovers and Wild River 2003, Walker and Crowley 1999 and Walker 1992.

44 Walker 2012; Walker 1999.

45 Walker 1999, 40.

46 Dovers 2003, 3.

the damming of the Franklin River, establishing the Wet Tropics World Heritage Area, and not proceeding with gold mining at Coronation Hill) were only achieved through extensive public campaigns by the environmental movement.

## Conclusions

This chapter has introduced the politics and policy of the environment, highlighting that environmental issues are not only incredibly interesting, but are also fundamentally important: our survival as a species depends upon how well we learn to live on this planet with other people and species. In broad terms this chapter has introduced some of the major questions that are debated in environmental policy, outlined some of the key types of policy actors and the institutional context they operate within (i.e. Australia's federal system of government), and discussed some of the themes that seem to be a recurring feature of environmental policy debate. While this may make for bleak reading, it should not be imagined that it has always been this way, or that such a situation is set in stone.

Progressive environmental politics and policy making can, has, and hopefully will occur, with glimmers of hope evident in both successful grassroots campaigns and some government supported actions. For example, there are clearly considerable numbers of Australians with an interest in, and concern for, making Australia more sustainable if the following initiatives are any indication: the widespread adoption of solar panels (because of, or despite, government policy settings and associated programs); the 'Lock the Gate' campaign to oppose widespread fracking; the Victorian government's renewed efforts on climate change; local councils declaring climate emergencies; the activist energy behind campaigns such as 'Extinction Rebellion'; and the mass mobilisation of young people as part of the 'School Strike for Climate' movement.

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# Foreign and defence policy

Thomas S. Wilkins and Nicholas Bromfield

## Key terms/names

ANZUS, defence strategy, Department of Foreign Affairs and Trade, Department of the Prime Minister and Cabinet, foreign aid, liberal internationalism/liberalism, middle power, National Security Committee, non-traditional security, realism, regionalism, securitisation, three pillars

The foreign and defence policies of Australia have been marked by periods of continuity and change since the country slowly decoupled from the UK and forged a more independent international posture from the postwar period to the present. This short introductory chapter cannot do justice to the full scope of Australian foreign and defence policy, which is a process of immense complexity, but rather seeks to highlight the key actors, events and enduring issues that face Australian policy makers from the present and into the future. By necessity, an introductory chapter cannot be comprehensive, and examples are therefore chosen representatively and selectively. Before proceeding to the main text of the chapter, which examines a range of selected contemporary aspects of Australian foreign and defence policy, it is necessary to provide some relevant historical background since current issues all have their historical antecedents.

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## Historical background

Contemporary foreign policy making takes place against a historical backdrop which informs current mindsets and policy. Australia relied upon the UK for defence, trade and even foreign affairs until the Second World War, despite the 'tyranny of distance' from the motherland. This dependence was cruelly exposed by the Japanese defeat of Imperial forces in Singapore in 1942, marking a watershed in Australian thinking. Prime Minister John Curtin famously declared that 'Without any inhibitions of any kind, I make it quite clear that Australia looks to America, free of any pangs as to our traditional links or kinship with the United Kingdom'<sup>1</sup> and soon after, he belatedly ratified the 1931 Statute of Westminster that devolved full sovereignty over international policy to the Dominion of Australia. During the postwar period, leading diplomats such as H.V. Evatt sought to carve out a greater role for Australia and other medium-sized powers in the shaping of global governance, for example, through the foundation of the United Nations (UN) and the San Francisco Peace Treaty settlements in 1951. At the same time the pivotal ANZUS (Australia–New Zealand–US) alliance treaty was inaugurated, indicating a shift from the UK to the USA in terms of defence reliance.

During the Cold War, Australian foreign and defence policy focused on the putative communist threat emanating from Soviet and Chinese expansion. Canberra acceded to the ANZUS alliance at the same time as the Second World War San Francisco Peace Treaties in 1951. This was tied to the ongoing process of decolonisation as European powers sought to preserve their influence in South-East Asia against nationalist, and often Marxist, independence movements and conflicts. Canberra provided diplomatic and military support for the UN-led coalition in the Korean War (1950–53), the British in Malaya against 'communist terrorists' (1948–60) and against the Indonesian 'confrontation' policy in Borneo (1963–66), and deployed substantial military force to support the USA in Vietnam into the 1970s (including through membership of the South-East Asia Treaty Organisation Pact). At this time Australia also withdrew from its own colony in Papua New Guinea (1975) and sought to manage relations with the diverse array of newly independent countries in the South Pacific making up the British Commonwealth.

Serious challenges arose around this time. President Nixon's Guam Doctrine (1969) signalled that America's allies would henceforth have to provide more resources for their own defence, prompting a more self-reliant defence policy in the 1970s and 1980s. Japan's postwar economic recovery had also encouraged increasing Australian economic engagement with Asia. But continuing Australian economic prosperity was undermined by protectionist policies, the economic rupture with the UK when the latter joined the European Economic Community in 1973, and a series of Middle Eastern 'oil shocks'. At this time, Prime Minister Gough Whitlam also ended the isolation of communist China by his visits to Beijing,

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1 Curtin 1941, 10.

which ultimately ended in the recognition of the Peoples Republic of China in 1973, and the removal of the Australian Embassy from Taipei in the Republic of China. The 1970s therefore saw a ‘torrent of change in Australian foreign policy’<sup>2</sup>

Against this backdrop, the Department of Foreign Affairs was established in 1971 (replaced with the Department of Foreign Affairs and Trade in 1987). These economic problems also led to a reappraisal of trade and financial policy and the embrace of a ‘neoliberal’ economic agenda in the 1980s: a progressive elimination of tariffs, privatisation, and opening of markets under the Hawke and Keating governments. These moves re-established Australian economic competitiveness and encouraged closer engagement with the Asian region, avoiding the possibility – in Keating’s words – that Australia might become a ‘banana republic’.<sup>3</sup> Australia also drove the building of regional multilateral institutions such as Asia Pacific Economic Cooperation (APEC), and was at the forefront of peace-keeping operations in Cambodia (1992–93) and East Timor (1999).

The long-running Howard Coalition government (1996–2007) continued these regionalist and globalist policies, while simultaneously taking a ‘hard-headed’ approach to the national interest despite its nostalgia for the UK–USA ‘Anglosphere’. By the 21st century, Australia’s firm attachment to the American alliance and active participation in the Asia-Pacific region was firmly established and deepened. But the post–Cold War and post-9/11 periods unleashed a range of new and unfamiliar policy challenges such as the rise of China, international terrorism, migration, and climate change. While Australia benefitted from the rise of Asian power and prosperity, the longstanding certainties upon which its foreign policy settings had been predicated have been called into question.

#### Australian foreign and defence policy: a thematic approach

In his seminal study of Australian foreign policy from 1942 to the present, Allen Gyngell identified three perennial aspects of Australian policy: a ‘great and powerful friend’, ‘regional engagement’, and a ‘rules-based international order’.<sup>4</sup> These have also been officially expounded as ‘three pillars’ (the US alliance, engagement with Asia and membership of the UN) under the Rudd–Gillard Labor governments. Moreover, subsequent Coalition governments have not significantly departed from these aspects, even if their emphases have differed. This introductory chapter takes these three elements as a point of departure and expands upon them to cover 10 key themes through which Australian foreign and defence policy can be understood and appraised. Indeed, former Ambassador to the USA, Kim Beazley,

<sup>2</sup> Gyngell 2017, 102.

<sup>3</sup> Kelly 1992.

<sup>4</sup> Gyngell 2017.

suggests that the ‘dramatic shift from state-centric diplomacy and the rise of non-state challenges has meant foreign policy must be dealt with thematically’.<sup>5</sup>

The 10 themes treated here are grouped under four sections. The first section, ‘contexts’, looks at: foreign and defence policy machinery, Labor versus Liberal Party policy traditions, and liberal internationalism; all of which set the stage for Australian policy engagement. The second section investigates three core platforms of foreign policy engagement: economic diplomacy, defence strategy and non-traditional security. The following section concentrates on Australia’s regionalist policies through Asian engagement and foreign aid. The final section considers Australia’s relations with the two superpowers in the Asia-Pacific: China and the USA, before offering conclusions. These themes interrelate and overlap, and should be considered as such – they are presented separately for analytical convenience and do not reflect any order of priority.

## Section 1: Contexts

### *Australia's foreign and defence policy machinery*

Australian foreign and defence policy making primarily resides within three major organs: the Prime Minister and Cabinet (PM&C), the Department of Foreign Affairs and Trade (DFAT) and the Department of Defence (DoD). At the apex of policy making, the government, headed by the prime minister and their foreign and defence ministers, as well as other portfolios, will normally play a significant role in shaping policy directions. Indeed, with the ongoing trend towards a more ‘presidential’ system of government, power has become more concentrated in the PM&C. Yet prime ministers have varied in their inclination and ability to put their stamp on foreign and defence issues. For example, at one end of the spectrum was Prime Minister Kevin Rudd, who effectively usurped the role of his foreign minister during his tenure, while his successor Julia Gillard, who had scant interest or experience in foreign affairs, found herself substantially delegating to her ministers (including her foreign minister: Kevin Rudd!). Indeed, the relationship between the prime minister and their foreign ministers has been a key aspect in executing a harmonious and cohesive foreign policy posture, with great combinations such as Prime Minister Paul Keating and Foreign Minister Gareth Evans juxtaposed with highly fractious ones such as Prime Minister Gillard and Foreign Minister Rudd.

The National Security Committee of Cabinet (NSC) is the peak decision and policy-making body for security. It conducts high-level consultations aimed at shaping and implementing broader security policy and brings together the prime minister, relevant ministers, PM&C, heads of the Australian Defence Force (ADF) and key national intelligence organisations (Office of National Intelligence [ONI],

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5 Beazley 2017, vii (emphasis added).

Australian Security Intelligence Organisation [ASIO], Australian Secret Intelligence Service [ASIS]). This is in line with the trend towards ‘securitisation’ of foreign policy, indicated throughout this chapter. The objectives of foreign and defence policy are also periodically outlined in government commissioned white papers, which are indispensable for a full understanding of current affairs.

The government of the day is supported by DFAT and the DoD, permanent bureaucratic organs that are designed to advise and implement foreign and defence policy respectively. Other actors, such as the Department for Homeland Affairs (DHA), which was established in 2017, also play a significant role in selected issues. DFAT is charged with the implementation of foreign policy, foreign relations, foreign aid, consular services, trade and investment. Yet, in the last two decades DFAT has been subject to significant budget cuts, organisational restructuring, loss of oversight to a range of other agencies, and a revolving door of foreign ministers (and prime ministers) at its helm, despite its apparently pivotal role in the foreign policy process. Though the department saw a measure of revitalisation under Foreign Minister Julie Bishop and head of its policy planning unit, Peter Vargese, it is still affected by resource shortages, poor morale, and lack of strategic focus.<sup>6</sup> The DoD, on the other hand, forms part of the Australian Defence Organisation (ADO), along with the ADF. Its remit is more narrowly focused upon defending Australia and its citizens and engaging in overseas coalition and peace-keeping activities. DoD has also suffered from attacks upon its ‘bloated bureaucracy’ that has emphasised ‘front-end’ material capabilities but has remained relatively unscathed from the cuts that DFAT has experienced due to its unique bureaucratic culture and enormous size.<sup>7</sup>

Generally speaking, foreign policy issues do not attract great attention among the Australian public (with some exceptions, such as asylum seekers), and civil society groups have traditionally struggled to influence the foreign policy establishment just described. An exception are think tanks such as the Australian Strategic Policy Institute (ASPI) and the Lowy Institute, which command some influence. However, in the age of social media and activism, foreign policy increasingly needs to take into account civil society preferences on one side and the ramifications of external policies on the domestic landscape on the other (a process known as ‘intermestic politics’).

#### *Labor versus Coalition leadership and foreign policy traditions*

The Coalition’s and Australian Labor Party’s (ALP) foreign and defence policy traditions are frequently thought to conform with the international relations paradigms of realism and liberalism respectively.<sup>8</sup> The Coalition is commonly associated with international relations realism, which assumes that the competitive

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6 Australian Public Service Commission 2013.

7 Claxton 2014.

8 Frydenberg, Parke and Langmore 2014.

interaction of states, acting in their self-interest in an anarchic international system, results in 'a politics of power and security'.<sup>9</sup> Both scholars and Liberal Party members alike tend to agree that the Liberals reflect elements that can be characterised as 'realist': a strong preference for alliances to ensure security, a scepticism towards the utility of multilateral forums and agreements, and a tendency towards pragmatism, rather than idealism in decision making.<sup>10</sup> Prime Minister Howard's government epitomised such an approach to foreign and defence policy. His government's 1997 *Foreign Policy White Paper*, entitled *In the National Interest*, made the argument that the Coalition's approach was 'the hard-headed pursuit of the interests which lie at the core of foreign and trade policy'.<sup>11</sup> More recent foreign and defence policy decisions from Prime Ministers Abbott, Turnbull and Morrison have continued to reflect the realist mindset with the continuing centrality of ANZUS to defence strategy, the ongoing proliferation of bilateral defence co-operation and free trade agreements (FTAs) since the Coalition returned to power in 2013, and the 'pragmatism' of the Liberal Party approach evident in the 2017 *Foreign Policy White Paper*.<sup>12</sup>

In contrast, the ALP is often linked with international relations liberalism, which assumes democracy, free trade, and multilateral institutions and norms are viewed as the most conducive means of achieving co-operation between states and international peace.<sup>13</sup> The ALP has thus placed faith in international law, the UN, and global/regional organisations as a means for pursuing Australia's national interests and values. ALP Prime Ministers Gough Whitlam, with his rapprochement with China, and Paul Keating, with his drive for Asian engagement, set the precedents for such approaches. The Rudd–Gillard governments continued to evince these tendencies – the championing of multilateral forums like the G20, the bid for a non-permanent seat on the UN Security Council, and norm entrepreneurship and activism at the 2009 UN Climate Change Conference in Copenhagen. This approach has often been referred to, especially in Labor rhetoric, as 'middle power diplomacy' – and scholars have adopted the 'middle power' framework to characterise and understand such behaviour.<sup>14</sup> The 'middle power' concept emphasises a combination of sufficient power resources (normally measured as the countries ranked globally from about 6th to 30th in terms of GDP), with an inclination towards foreign policy activism on key global or niche issues, such as climate change or disarmament. Middle powers have traditionally viewed themselves as good international citizens, supporting international laws and norms through multilateralism, rather than as self-interested mercantilist or military powers. Former Prime Minister Kevin Rudd's initiative on creating an Asia Pacific

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9 Wohlforth 2008.

10 McCraw 2008.

11 Department of Foreign Affairs and Trade 1997, iii.

12 Department of Foreign Affairs and Trade 2017, 11.

13 Jahn 2013.

14 Wilkins 2014.

community (APC), a new multilateral pan-regional grouping to improve stability and security among the region, was exemplary of such self-styled creative middle power diplomacy. It has become firmly established in the lexicon of Australian foreign policy, despite the Liberal's distaste for the middle-power descriptor itself.

This fact, and further similarities between the parties, reflect the structural constraints that guide the decision making of middle powers like Australia in the international system. A core of bipartisanship regarding Australian defence policy can be identified 'including a focus on defending the Australian continent, an alliance with the United States, and the capability to contribute to regional and global coalition efforts'.<sup>15</sup> Similar levels of bipartisanship exist regarding issues of foreign policy – trade policy is broadly neoliberal in orientation and supports the principles of free trade and marketisation (not to be confused with international relations liberalism or the Liberal Party). As such, the differences between the Labor and Liberal foreign and defence policy traditions may be better characterised as different means to similar middle-power ends.

#### *Liberal internationalism*

There is considerable bipartisanship between Australia's major parties regarding how to engage with the international system. This may be captured by the principle of 'liberal internationalism'.<sup>16</sup> Yet, liberal internationalism stands more broadly for the extroverted role of Australia in engaging with international institutions, participating in free trade and upholding a 'rules-based international order' (anchored in US global primacy). This has its basis in the identification of Australia as a liberal democratic country with associated interests and values that should be pursued and defended. This liberal internationalism – defined as an 'activist foreign policy that promotes liberal principles abroad, especially through multilateral co-operation and international institutions'<sup>17</sup> – reflects Australia's self-perception as a 'good international citizen'.

Australia has been active in foreign policy spheres aligned with its national interests and has pursued its values and support for an international rules-based order in areas like trade and finance, global governance, human rights and justice, the environment and aid. For example, the Rudd government played an entrepreneurial role in encouraging the elevation of the G20 to a leader's summit in the context of the Global Financial Crisis (GFC). Such multilateral forums have reflected the consensus that Australia's economic needs are best served by free trade and open markets,<sup>18</sup> but also that better global governance can be achieved through such forums, too. Australia has been similarly active pursuing international action on

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15 Carr 2017, 256.

16 Jahn 2013.

17 Paris 1997, 59.

18 Fenna 2016, 263.



environmental issues that affect Australia, including the Montreal Protocol of 1987 that addressed the role chlorofluorocarbons played in ozone depletion and anti-whaling action against Japan in the International Court of Justice in 2010 (though Australia has had a more mixed record regarding climate change negotiations). These actions demonstrate the liberal internationalist belief in institutions to provide opportunities for dialogue, mediate disputes and promote good global governance.

Similarly, Australia identifies the liberal world order established by Pax Americana (the relative international peace ensured by US hegemony) as a key security interest, with the *2016 Defence White Paper* arguing: ‘The growing prosperity of the Indo-Pacific and the rules-based global order on which Australia relies for open access to our trading partners are based on the maintenance of peace and stability.’<sup>19</sup> Australia has been active in multilateral agreements that uphold this ‘rules-based order’, such as pursuing service as a non-permanent member of the UN Security Council, sanctioning illiberal states like North Korea or Syria, and advocacy for the Responsibility to Protect, a principle that seeks to prevent mass atrocity war crimes.

Australia has also defended such principles, including participation in operations in Afghanistan and Syria against global jihadism; humanitarian intervention in Timor Leste in 1999 and again in 2006; a long history of peace-keeping efforts; and attempts to hold Russia accountable for the downing of the airliner MH17 in 2014 while on the UN Security Council. Australia has also trod a ‘middle path’ on nuclear weapons – advocating for a South Pacific Nuclear Free Zone and the 1996 Comprehensive Test Ban Treaty, supporting international efforts to control horizontal proliferation by actors like North Korea and Iran, but not supporting recent multilateral pushes to eliminate nuclear weapons, as seen through the International Commission on Nuclear Non-proliferation and Disarmament. Australia’s actions demonstrate the liberal intolerance of non-democratic countries and their attendant challenge to the liberal order.<sup>20</sup>

## Section 2: Core policy platforms

### *Economic diplomacy*

Soon after Federation, Australian policy makers agreed to regulate and protect the economy with tariffs, wage arbitration, state-led development, and British Imperial Preference for Australian goods. This Australian Settlement and Keynesian economic management underpinned the long postwar boom.<sup>21</sup> The collapse of British Imperial Preference, the problem of slow economic growth combined with high

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<sup>19</sup> Department of Defence 2016, 15.

<sup>20</sup> Doyle 1986.

<sup>21</sup> Stokes 2004.

inflation known as ‘stagflation’, and the unravelling of the Keynesian orthodoxy in the 1970s challenged this consensus. The Hawke–Keating governments responded by liberalising the Australian economy and opening it up to international market forces in an effort to ensure economic security.

These policy shifts also advocated multilateral agreements to lower tariffs for Australian resources and agricultural goods – an area where Australia retained a comparative advantage. The record here was mixed – the conclusion of the Uruguay Round of the General Agreement on Trade and Tariffs (GATT) in 1994 did contain successes for Australia, but the Maastricht Treaty of 1992, which set the framework for the EU single market, the creation of the North America Free Trade Agreement (now USMCA), and moves by ASEAN (Association of South-East Asian Nations) to negotiate a free trade agreement that excluded Australia, concerned Australian policy makers.<sup>22</sup> Reducing trade protection barriers further was of particular concern given the increasing importance of Japan, China and South-East Asian countries as growing economies and important markets for Australian exports. APEC was therefore a forum that Labor has embraced to promote liberalisation in the region, but a pan-regional APEC free trade agreement remains elusive.

The Howard government faced many of the same challenges as Labor and, acting upon a preference for neoliberal principles, took the view that bilateral trade negotiations could supplement multilateral efforts. This was informed by the difficulties of the Doha Round of the GATT and was especially a concern about trade access in East Asia, where Australia was making little headway with ASEAN+3<sup>23</sup> and signs were developing of regional and bilateral trade agendas that excluded Australian participation. The Howard government negotiated bilateral FTAs with Thailand, Singapore, and more controversially the USA (AUSFTA), where political imperatives to solidify the Australian–USA relationship seemed to be as paramount as economic considerations.<sup>24</sup> Multilaterally, the Howard government was instrumental in the negotiation of the ASEAN–Australia–New Zealand free trade agreement<sup>25</sup> and provided funds to the International Monetary Fund as part of the bailout package during the Asian Financial Crisis (1997–98).

Since then, further bilateral FTAs have been negotiated with Chile, Malaysia, South Korea, Japan and China and multilaterally with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) after the withdrawal of the USA from the Trans-Pacific Partnership (TPP) negotiations in 2016. This reflects the continuing significance of the neoliberal consensus in trade policy that has

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22 Meredith and Dyster 1999, 290.

23 ASEAN+3 is a forum for cooperation between ASEAN members and the East Asian nation-states Japan, China and South Korea.

24 Capling 2008, 36–7.

25 Firth 2011, 251.

remained even after the shocks of the GFC. Australia particularly championed the CPTPP, pushing hard to revive negotiations after the US withdrawal from the TPP.

This story of Australia's international economic engagement reflects its position as a middle power. Canberra has attempted to ensure the comparative advantage of its resources, services and agricultural goods in the international marketplace, but has also reflected its geographic position by negotiating key bilateral and multilateral agreements centred in the Asia-Pacific rim. This has been especially important as the resources boom is a story closely intertwined with China's rise. In the context of growing regional rivalries and US rejection of the free trade agenda under President Trump, strategic security begins to come to the fore just as much as economic security. China's Belt and Road Initiative, and the abandonment of the TPP by the USA will continue to concern Australian policy makers worried about challenges to the orthodoxy of the international rules-based order.

### *Defence strategy*

Australia's defence strategy has undergone several iterations since Federation, but its strategic interests have remained largely in the Indo-Pacific arc as, historically, threats to the Australian continent have emerged from South-East Asia.<sup>26</sup> While the area of interest has remained consistent across time, the nature of the threat, the balance of power among great nations, and Australia's own capability to respond have not remained the same, leading to different strategies being adopted since the Second World War: the expeditionary school of 'forward defence' until 1972; and the 'continental defence' of Australia school until 9/11.

The Second World War demonstrated that the British were no longer the pre-eminent power in Asia. But the war also crushed Japan and saw China consumed by civil war. This left Australia in the peculiar situation of continuing its alliances with powerful allies, but also capable of projecting power with these allies into South-East Asia to resist communism.<sup>27</sup> This 'forward defence' policy led to Australian military commitments to Korea and Vietnam with the US, and to Malaya and Borneo with the British. Australia was able to defend the continent far from its northern approaches due to the relative weakness of the states in South-East Asia and the relative strength and commitment of Australia's allies in the region.

The forward defence era ended when the fear of the spread of communism in the region reduced, the relative power of South-East Asian nation-states increased, and Australia's allies reduced their commitment to the region in the 1960s.<sup>28</sup> Australian policy makers worked through the implications in the 1976 *Defence White Paper*, the 1986 'Dibb Report' and the 1987 *Defence White Paper*.<sup>29</sup> Dibb

26 Lockyer 2017, 193.

27 Lockyer 2017, 161

28 Fruhling 2009, 44; Lockyer 2017.

29 Dibb 2007.

argued for the self-reliant defence of the Australian continent in two ways: treating geography as an independent variable with an enduring effect on Australia's strategic interests; and that Australia should maintain a regional technological edge.<sup>30</sup> These ideas were meant to discipline defence planners: Australia could contribute to overseas deployments with allies, but had to prioritise a military geared towards the air and sea defence of Australia's northern approaches and relative de-emphasis upon the traditional prioritisation of the army.

Critics argue that there is a disjuncture between continental defence and what the ADF actually *does*.<sup>31</sup> The liberal internationalist nature of Australia's strategic culture has been reflected in its deployments and security priorities against global jihadism, humanitarian intervention, and providing backing to failing states in Afghanistan, Iraq, Timor Leste or the Solomon Islands. Such issues permeated the 2003 *Defence Update*.<sup>32</sup> More recent white papers have been criticised for planning a force structure that is too thin to credibly deter a rising China from operating in areas of strategic interest to Australia's north, even with new capability upgrades like the F35 joint strike fighter and the planned doubling of submarine capabilities.<sup>33</sup> How to deal with these problems has yet to be fully resolved. The 2016 *Defence White Paper's* prioritisation of a 'stable Indo-Pacific region and a rules-based global order'<sup>34</sup> demonstrates how far removed current Australian strategic thinking is from actual continental defence. Such debates reflect the changing regional balance of power.

Given these facts, the size of the defence budget, the affordability of defence procurements, the question of value-for-money when purchasing interoperable defence capabilities from alliance partners, and even the effective deliverability of an Australian defence industry, come to the fore as crucial issues for policy makers. Defence is a department that ultimately needs to compete with other departments for government funding and against cutbacks. Further, policy makers must balance these strategic aims with domestic political contests, as the recent decision to build new submarines in South Australia at considerable additional cost demonstrates. Addressing these competing priorities will continue to confront defence chiefs and their ministers in the future.

#### *Non-traditional security challenges*

The 'almost complete alignment of Australia's foreign policy priorities with its national security agenda'<sup>35</sup> reflects a broadened definition of 'security'<sup>36</sup> and the

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30 Dobb 2006.

31 Evans 2005, 105.

32 Dupont 2003.

33 White 2019; White 2006.

34 Department of Defence 2016, 33.

35 Wesley 2012, 264.

36 Buzan 1991.

increasing 'securitisation' of foreign policy evident since the Howard government. In this respect it is more appropriate to employ the broader term *security* policy rather than *defence* policy. These policy shifts are demonstrated by budget cuts to DFAT and corresponding expansion and strengthening of the security-oriented institutional apparatus, including the ONI, ASIO, ASIS, the NSC and the DHA.

This reflects the securitisation of a new range of problems such as terrorism and migration, in addition to traditional concerns about the regional strategic environment. Cyber security has also been an area of increasing concern, with attacks launched by both state and non-state actors upon Australia's political, economic and defence sectors.<sup>37</sup> Added to this are less obviously defence-related threats such as climate change and other environmental disasters, financial risks, pandemics and societal/political instability, typically described as 'non-traditional security challenges'.<sup>38</sup> As such, challenges such as terrorism and irregular migration are increasingly considered as national security threats, sometimes demanding a militarised response.

In the wake of the 2001 al-Qaeda attacks upon the USA (which for the first time activated ANZUS), Australians were subjected to attacks in Bali (2002 and 2005) and Jakarta (2003 and 2004), followed by other incidents and foiled plots in Australia. Canberra responded by deploying military force alongside the USA in the Middle East. Canberra also ramped up its security apparatus domestically and regionally and initiated major counterterrorism co-operation with regional partners like Indonesia. Australia has thus provided training, equipment, and direct military and police support overseas, and is engaged in surveillance and de-radicalisation programs among domestic would-be Jihadists.

Irregular population movements have also assumed an outsized presence in Australian security policy, often involving asylum seekers. While Australia has accepted refugees from Vietnam or China in the past, such 'illegal arrivals' have since been criminalised and military assets are now used to apprehend them in tandem with Indonesia (Operation Sovereign Borders), and arrivals detained in offshore processing centres (earlier known as the 'Pacific Solution'). Such policies violate Australia's obligations under various human rights treaties and international law and damage its reputation as a 'good international citizen', but the Australian public sees asylum arrivals as a security threat<sup>39</sup> and such policies now receive bipartisan support.

Nature itself is sometimes conceived of as a 'security issue', especially the risk of global climate change. Kevin Rudd called it 'the great moral challenge of our generation'.<sup>40</sup> Yet Australian governments have been ambivalent in their response

37 Hanson et al. 2017.

38 Baldino et al. 2011.

39 Lowy Poll 2018 – 77 per cent agreed that large numbers of immigrants and refugees coming into Australia was a 'critical threat' or an 'important, but not critical threat' (Lowy Institute and Oliver 2018, 8).

40 Rudd 2007.

to this issue, initially refusing to ratify the Kyoto Protocols (though eventually ratified in 2008) and reluctant in implementing meaningful domestic legislation such as carbon capping/trading schemes. In contrast, Australia has been proactive in providing humanitarian assistance and relief to regional counties that have been affected by natural disasters (e.g. the 2004 Boxing Day tsunami) and assisting others with capacity-building to improve their resilience against future occurrences. This is partly driven by fears that climate/disaster affected local states will become destabilised resulting in increased migration flows to Australia itself.

### Section 3: Regionalism

#### *'Asian engagement'*

Australian recognition of its geographic place at the southern tip of South-East Asia occurred glacially, as it clung to its European roots. The gradual replacement of fading British power with the greater strength of a fellow Anglo-Saxon American ally allowed Australia to continue its limited embrace of its Asian neighbours (with exceptions, such as the 1950 Colombo Plan). Australia found itself engaged in wars of decolonisation at the behest of the UK and USA in the postwar era, and Australian contact with Asia remained confined mainly to strategic issues, even as trade with a revitalised Japan started to become increasingly important from the 1960s. One major impediment to Australia's acceptance in the Asian region was the 'White Australia' policy, which was officially ended by Gough Whitlam in 1973.

This policy realignment was catalysed by the 1989 government report by Ross Garnaut entitled *Australia in the Northeast Asian Ascendancy*.<sup>41</sup> However, it was not until the Labor prime ministership of Paul Keating that Canberra truly faced the reality that its natural home was as part of Asia, and not simply as an isolated 'cultural outpost' of an Anglo-Saxon protector.<sup>42</sup> Keating, with the support of his foreign minister, Gareth Evans, carved a path – sometimes controversial – of 'Asian engagement', and the country has assumed a strong role not only in the economy of the Asian region, but also in its institutional arrangements. Indeed, Keating and Evans were instrumental in the creation of pan-regional organisations such as APEC and the ASEAN Regional Forum. The 'region' in which Australia resides is referred to variously as 'Asia', the 'Asia-Pacific' and more recently the 'Indo-Pacific'. While Labor governments have typically been more proactive on this, and though Liberal Prime Ministers such as John Howard and Tony Abbott have sought to place a stronger accent on 'Anglosphere' partners, they have not interrupted the process (a dynamic identified as the 'Howard paradox').<sup>43</sup> Even Liberal Prime Minister

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41 Garnaut 1989.

42 Keating 2000.

43 Wesley 2007.

Tony Abbott talked about ‘more Jakarta, less Geneva’ as the guiding principle for foreign policy.<sup>44</sup>

Canberra’s regional efforts have naturally focused upon the major powers in Asia, with which Australia has successively built deep trading, and in some cases, security ties. Successive government white papers have identified Japan, India, South Korea, India, as well as China, as the main foci of engagement. First came Japan from the 1960s onwards, as Australian natural resources played a major role in that country’s economic boom and rise to regional pre-eminence into the 1980s–90s. From a long-term foundation of economic and cultural ties, more recently the relationship has taken on a strategic aspect with the ground-breaking Joint Declaration on Security Cooperation in 2007, which has since been reinforced and is now described as a ‘Special Strategic Partnership’.<sup>45</sup> Second, India’s economic liberalisation in the 1990s paved the way for its greater presence in Asian affairs and indicated the importance of strengthening long-neglected bilateral ties. With the reframing of Australian strategic policy under the mantra of ‘Indo-Pacific’, and its accompanying ‘Free and Open Indo-Pacific’ strategy, the possibilities of enhancing bilateral co-ordination with New Delhi, especially in the maritime sphere, have gained increased attention.<sup>46</sup> The ‘Quad’ dialogue between Canberra, Tokyo, India and the USA, also reinforces Australian engagement with these two leading Asian powers. Third, South Korea is a significant Australian trading partner and Canberra remains deeply engaged with the question of North Korean nuclear proliferation. Fourth, managing relations with Indonesia has presented a major challenge in Australian foreign policy, particularly as this emerging power acts as a fulcrum of both ASEAN and the ‘Indo-Pacific’ concept, and ties with Jakarta have been subject to a series of highs and lows related to human rights concerns, terrorism, irregular migration, and pronounced cultural differences.

Moreover, Canberra is now deeply embedded in the ‘regionalism’ process in the Indo/Asia-Pacific. Australia can count membership in a plethora of multilateral regional organisations, mainly centred upon the ASEAN, such as the East Asia Summit, ASEAN Regional Forum, APEC, which it helped found, and the Five Power Defence Agreement (including Singapore and Malaysia).<sup>47</sup> In 2005, a reluctant Howard government even signed the ASEAN Treaty of Amity and Cooperation. Notably, due to the rise of China and India, and the now recognised importance of Indonesia and other South-East Asian states, Canberra has even sought to shape the very regional architecture itself through initiatives such as Kevin Rudd’s ‘Asia Pacific community’ and participation in the ‘Free and Open Indo-Pacific’ strategy of Japan (since joined by the USA, and potentially India). Indeed, the Labor government’s *Australia in the Asian Century* white paper in

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44 O’Neil 2018.

45 Wilkins 2018.

46 Brewster 2016.

47 He 2017.



2012 emphasised the need for deeper integration and engagement with Asian neighbours (included the neglected task of developing ‘Asian [language] literacy’).<sup>48</sup> Thus, Canberra is acutely aware that its relations with key countries such as China, India, Japan, Indonesia and the ASEAN countries are vital to its regional diplomatic interests.

### *Foreign aid*

Aid is an extension of Australia’s national interest, with a regionally directed focus. Prime Minister Howard once reflected upon the regional basis to this notion: ‘Australia’s most immediate interests and responsibilities will always be in *our region*’<sup>49</sup> – the South Pacific (Pacific Island countries) and South-East Asia. This area is sometimes described as an ‘arc of instability’<sup>50</sup> a term that conveys the connection between aid, security and the national interest. Aid was not always conceived of in this securitised fashion. Aid thinking prior to the mid-2000s was primarily development centred, with an emphasis upon economic growth and market-based solutions.<sup>51</sup> But global jihadism and the danger of failing states in the region shifted Australia’s approach to aid to one that sought to manage ‘the spill-over to Australia of transnational risks, potentially festering within the borders of “ineffective” states.’<sup>52</sup> The primary means to influence the region has largely been through foreign aid or overseas development assistance, through forums like the Pacific Island Forum, and, in extreme situations, military intervention.

Australia’s aid budget 2018–19 reflected this regional prioritisation, giving \$1.3 billion to the Pacific region, \$1 billion to South-East and East Asia, and smaller amounts to regions with more pressing needs – \$284.8 million to South and West Asia and \$258.5 million to the Middle East and Africa.<sup>53</sup> If aid was given on the basis of need it would be geared towards Africa and South Asia, which contain most of the world’s 47 least developed countries (LDCs). Comparatively, only five countries in the Pacific and three in South-East and East Asia are listed as LDCs.<sup>54</sup> But regional dangers have been brought into sharp relief post 9/11, epitomised by Australian intervention in Timor Leste, the Regional Assistance Mission to the Solomon Islands, and ongoing governance issues and political instability in Papua New Guinea and Fiji. Chinese influence in the Pacific region has also framed Australia’s recent foreign aid commitments and prioritisation.

The securitisation of the region, coinciding with the increasing revenues garnered from the mining boom, ushered in a ‘golden consensus’ of bipartisan

48 Department of Foreign Affairs and Trade 2012, 167–71.

49 Howard 2005 (emphasis added).

50 Ayson 2007.

51 Corbett and Dinnen 2016, 89–91.

52 Hameiri 2008, 357.

53 Department of Foreign Affairs and Trade 2018a, 6.

54 UNCDP 2018.



support for an 80 per cent increase in aid from 2003/04 to 2012/13,<sup>55</sup> aiming to minimise risk and improve governance and state capability. Howard began the budget increases and Rudd continued, aligning aid spending with the UN Millennium Development Goals in the process, a framework that committed states to reducing extreme global disadvantage and poverty.

The GFC of 2008 broke this consensus. The Gillard government cut aid in the pursuit of budget repair and the incoming Abbott government cut even deeper, merging the stand-alone statutory body AusAID into DFAT in 2014 and cutting aid spending dramatically – \$7.6 billion over forward estimates and an additional \$1 billion in the following financial year.<sup>56</sup> The government was able to do this as aid was only shallowly embedded in political discourses and institutions, and the cuts failed to attract public opprobrium.<sup>57</sup> The Coalition has subsequently argued that aid ‘both supports the strong and direct national interest we have in stability and prosperity in our region and reflects our values as a nation.’<sup>58</sup> The securitisation of aid, its regional focus, and recent budgetary cuts, demonstrate that the aid program is strongly geared towards the national interest as much as it is towards Australia’s liberal internationalist values.

#### Section 4: The superpowers

##### *Rise of China*

Since its official ‘opening up’ under Deng Xiaoping in 1979, China has risen to economic pre-eminence in the region. The Chinese economy grew from US\$178 billion in 1979 to US\$12 trillion in 2018, accounting for 15 per cent of the global economy and is set to eclipse that of the USA in the near term by any measure.<sup>59</sup>

Australia has been a major beneficiary of Chinese economic development as it has provided raw materials, and increasingly services, to China. Bilateral trade with China now amounts to \$164 billion, representing 27 per cent of total Australian trade in 2017.<sup>60</sup> This has boosted the economy immeasurably, even more so than Japanese trade did during its 1960s–1980s boom period. Australia has engaged Beijing diplomatically (through the Australia–China annual Foreign and Strategic Dialogue) and joined regional initiatives spearheaded by China such as the Asian Infrastructure Investment Bank and the Regional Comprehensive Economic Partnership. The important tertiary education sector in Australia has also seen an

55 Day 2016, 641–2.

56 Day 2016, 643–4.

57 Day 2016. Also, a 2015 Lowy Institute poll found majority public support for 2015–16 aid budget cuts (Lowy Institute and Oliver 2015, 4).

58 Department of Foreign Affairs and Trade 2018a, 1.

59 World Bank 2018.

60 Department of Foreign Affairs and Trade 2018b.

influx of mainland Chinese students, and the establishment of Confucius Institutes, exposing the nation to contact with all things Chinese as never before. Beeson and Hameiri attest to 'the game-changing nature that China's rise has had on nearly every aspect of Australia's foreign policy and much domestic policy, too'.<sup>61</sup>

But Australian policy makers have been somewhat uncomfortable with China's meteoric rise to power,<sup>62</sup> and Australian economic dependency upon China is a double-edged sword as Beijing's national interests and values are, in many ways, inimical to those held by Australia. In the past, Australia enjoyed the happy concurrence of its trade and security centred upon the USA and its allies (especially Japan), but efforts to 'compartmentalise' trade and security initiated under Howard have now run their course.<sup>63</sup> In contrast to Australia's liberal democratic capitalist democracy, China is a (nominally) communist authoritarian government which holds different views on domestic practice and regional affairs. For example, Australia is mindful of Chinese 'core interests' and refrains from aggravating Beijing over the status of Taiwan, Hong Kong and Tibet (e.g. receiving the Dalai Lama), subdues its criticism of human rights, and weighs the support it gives to Washington and Tokyo when this conflicts with Beijing's views.

Of particular note is Australia's opposition to Chinese assertiveness in the South China Sea, where Beijing has territorial disputes with neighbouring countries and is engaged in a process of militarising artificial land features, against the strong protests of the USA and others. Australia risks both diplomatic chastisement and economic retaliation ('punishment') for diplomatic missteps in Beijing's eyes – such as decrying China as a 'threat' (as in the *2009 Defence White Paper*). Moreover, Chinese influence on Australia's domestic politics has not always been benign. The revelation of expansive industrial and defence espionage activities and attempts to shape political dynamics within the country (known as 'influence operations') have revealed the stark divergences in political and cultural mores among the two.<sup>64</sup> Australia has since sought to increase its resilience to such efforts and has passed legislation to scrutinise Chinese investment due to linkages with state-owned enterprises. Thus, Beeson and Hameiri conclude that 'for better or worse, however, attempting to manage relations with China is going to be the litmus test of policy efficacy for any Australian government for the foreseeable future'.<sup>65</sup>

### *US alliance*

The US alliance has remained a central pillar of Australian foreign and defence policy planning since its codification in the ANZUS Treaty of 1951, which served to shield the country from the communist threat of the USSR and China. The ANZUS

61 Beeson and Hameiri 2017, 7.

62 Gill and Jakobson 2017.

63 White 2013.

64 Hamilton 2018.

65 Beeson and Hameiri 2017, 9.

Treaty created a trilateral Australia–USA–New Zealand arrangement, but is now effectively bilateral since Wellington was excluded by the USA in 1986 over its non-nuclear policy.<sup>66</sup> The alliance retains strong elite and public support in Australia and the country remains ‘dependent’ upon Washington for its ultimate national defence, including the important function of the US nuclear capability to deter armed attack upon its territory (‘extended deterrence’).<sup>67</sup> Indeed, without American military support Australia would need to raise its defence budget significantly, and perhaps even contemplate developing an independent nuclear deterrent to secure its national defence.<sup>68</sup>

Sustained Australian commitment and ‘loyalty’ to the alliance has been demonstrated through its unfailing military contribution to coalitions led by the USA in Vietnam, Afghanistan, Iraq, and in the broader ‘War on Terror’ against al-Qaeda/ISIS. The capabilities of the ADF are closely interoperable with those of their American counterparts and utilise much of the same US technology.<sup>69</sup> Australia also hosts a range of ‘joint facilities’ such as the Pine Gap intelligence facility and ‘rotational’ deployment of the US Marine Air–Ground Task Force near Darwin. Finally, recent white papers have indicated that Canberra is committed to deepening its alliance interdependence through increased military integration.<sup>70</sup> As such, Canberra has been a resolute diplomatic supporter of US foreign and strategic policy in a bid to ensure its own national security through the maintenance of US primacy in Asia (e.g. through the ‘Free and Open Indo-Pacific’ strategy). This is enshrined in Australian defence thinking as necessary ‘payment of an alliance premium’ to assuage ‘fear of abandonment’, thus theoretically ensuring that the USA reciprocates should Australia find itself under attack in some future unspecified contingency.<sup>71</sup>

Yet, debates regarding the reliability and desirability of the US alliance have been sparked when Washington has engaged in internationally controversial and destabilising policies such as the invasion of Iraq or President Trump’s rejection of international norms. Though bipartisan support for the alliance is resolute, and the benefits are clearly enumerated above, the alliance is not without its academic and political critics, many of whom point out that the ANZUS Treaty itself is less than unequivocal about automatic American military support for Australia.<sup>72</sup> Indeed, the shifting power dynamics in Asia and President Trump’s disruptive ‘America First’ foreign policy have demonstrated that ‘the credibility of US primacy has been visibly diminished.’<sup>73</sup> Some Australian analysts have consequently pondered if the

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66 Hensley 2013.

67 Bell 1988.

68 Frühling 2018.

69 Dean, Frühling and Taylor 2016.

70 Department of Defence 2016; Department of Foreign Affairs and Trade 2017.

71 Gyngell 2017.

72 Fraser and Roberts 2014.

73 Bisley 2017, 45.

attachment to the USA is removed from a clear appraisal of genuine Australian national interests, and perhaps impedes the development of a more ‘independent’ or ‘mature’ foreign policy for the nation: ‘The long-term efforts binding Australia to the US have decidedly narrowed Australia’s policy options’, according to Nick Bisley.<sup>74</sup>

Moreover, the dominant concern is that unalloyed support for the USA raises difficulties with Australia’s primary economic partner and rising regional power: China. According to Dibb, ‘China wants to be acknowledged as the natural hegemon of Asia and to see an end to America’s alliance system in the region, including ANZUS.’<sup>75</sup> Not only is Beijing on record as opposing the US bilateral alliance system in the region, but, as USA–China rivalry sharpens, Canberra risks being drawn into a conflict (‘entrapped’) in support of the USA, over a flashpoint like Taiwan or the South China Sea.<sup>76</sup> Hugh White, whose earlier work discussed ‘choosing’ between Washington (security) and Beijing (economy), points out that the dependence upon the USA for protection is a fading asset as Chinese power eclipses that of the USA in, at least, the Asian region.<sup>77</sup> As such, the credibility of American commitments in Asia are increasingly drawn into question, all while Washington continues to demand greater support in return.

## Conclusions

This chapter highlighted a range of key themes central to the thinking and practice of Australian foreign and defence policy. Many of the long-term issues are familiar – how to balance the US alliance with good international citizenship and Asian engagement – but these issues may develop in new ways into the future, and new pressing issues may emerge that create serious challenges to existing foreign policy settings. The stresses between these central factors are increasing as US power and purpose in the Indo-Pacific is undermined both by American policies and structural decline (the end of ‘unipolarity’), but also by the rise of China and other Asian powers, which will substantially reshape the regional environment that Australia inhabits.

Added to this is the prospect that Australia itself will become relatively less powerful over time and thus less able to influence events into the future – a fact exacerbated by the diminution of the institutional apparatus, especially DFAT – and the seemingly unstable pattern of government that has emerged in recent years.<sup>78</sup> In brief, though Australia will retain a strong state capacity, including military forces, it will face the future from a weaker position than it has in the past. At the same

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74 Bisley 2017, 52.

75 Dibb 2018.

76 Allison 2017.

77 White 2013; White 2017.

78 Lowy Institute 2018.

time, Australian policy making has become increasingly 'presidential', with greater power invested in the office of PM&C and increasingly 'securitised' through the operation of multiple new or strengthened security/intelligence organs, mentioned above. Shifts in the international environment and the domestic policy-making terrain in Australia will combine to shape how foreign policy is directed in an uncertain future, full of 'wicked' problems – i.e. challenges that defy easy resolution, and often demand co-ordinated 'whole of government' responses. And yet Andrew Phillips reminds us that 'Australians have also proved remarkably adept in adjusting to changing international circumstances'.<sup>79</sup> Time will tell.

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79 Phillips 2017, 21.

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# Health policy

Ian McAuley

## Key terms/names

acute/chronic conditions, 'Baumol effect' on public expenditure, casemix funding, community rating/risk rating, cost-shifting, cost-benefit analysis, fee-for-service health care, health insurance/single-payer health insurance, moral hazard, muddling through, out-of-pocket costs and co-payments, primary care, public health, Rawls' 'original position', social determinants of health, technical and allocative efficiency

A fundamental concern of governments is the health of their citizens, and all governments have policies directed to, or having an effect on, people's health. Most policy concern is with health care – that is, the provision of services, ranging from general practitioner (GP) consultations through to high-intensity care for those suffering severe accidents or life-threatening diseases such as cancer.

But in terms of health outcomes – the capacity of people to enjoy many years of healthy life – provision of health care is only one factor. Governments have programs promoting healthy lifestyles to reduce the need for health care, and almost all government policies contribute to or detract from people's health directly or indirectly.

Health care, however, tends to dominate policy considerations. For reasons to do with social equity and failures of market mechanisms to deliver health care, governments of all persuasions, 'left' or 'right', are heavily involved in health care,

McAuley, Ian (2019). Health policy. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

which commands a large and growing proportion of government budgets. In Australia one-fifth of government outlays are for health care.

Governments and the health of nations

### *Public health*

Many government interventions that contribute to (or detract from) people's health take place in areas other than the health portfolio. Regulations such as those applying to firearms, food safety, air quality and use of seat belts all have an effect on health. So too do provision of infrastructure such as clean water and sewerage, and town planning (do our cities encourage walking, are there enough playing fields?). Policies to do with slowing the rate of climate change or mitigating its effects may seem to be distant from health policy, but climate change can have profound effects on the incidence of heat stress, food supply, the spread of diseases, air quality, natural disasters and dislocation of entire populations.<sup>1</sup>

Then there are specific measures that are generally described as 'public health'. These include vaccinations, and campaigns on safe sex, discouragement of smoking and on responsible use of alcohol. The reach of a government's 'health' portfolio varies between states or other divisions within nations: governments may, for example, include sport in the health portfolio.

### *Social determinants of health – unsung but effective policies*

Sound health and socio-economic conditions are strongly correlated. Those who enjoy connections to the community, well-paid and meaningful work, social support and control over their lives enjoy better health than those who don't. The Australian Institute of Health and Welfare (AIHW) points out that 'people in lower socio-economic groups are at greater risk of poor health, have higher rates of illness, disability and death, and live shorter lives than those in higher socio-economic groups'.<sup>2</sup>

Correlation does not prove causation: those who suffer poor health cannot easily find well-paid employment, for example. But there is strong evidence that there is also causation in the other direction: people's health over their lifetimes is influenced by their socio-economic conditions. Among what are known as the 'social determinants of health' are early childhood development, education attainment, people's occupation (those with more control over their work enjoy better health), job and financial security, and people's degree of social integration.<sup>3</sup>

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1 McMichael 2017.

2 AIHW 2018a, 256.

3 Wilkinson and Marmot 2003.

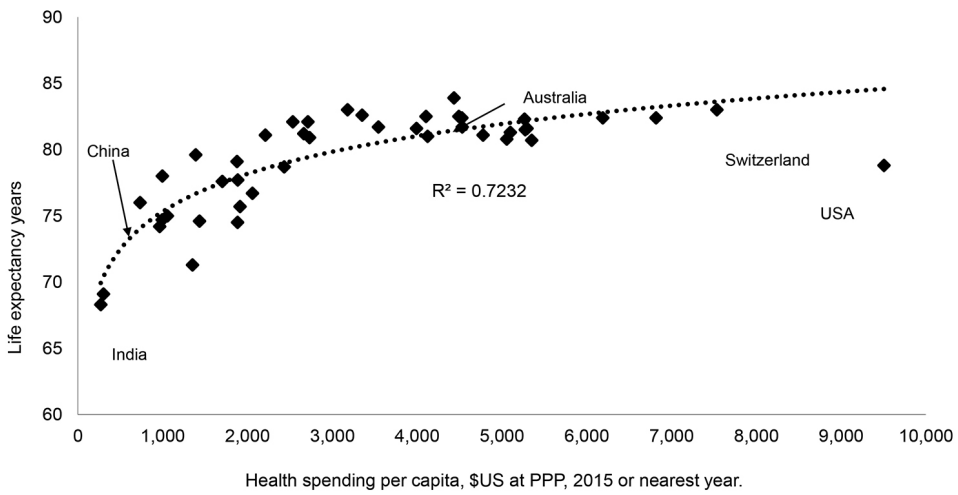


Figure 1 Life expectancy at birth and health spending per capita, 43 countries. Source: data from OECD 2017, data as for chart 3.3, page 49, excluding South Africa.

There is also evidence that those who live in societies with more economic inequality, regardless of their individual income or wealth, have poorer health than those in more equal societies.<sup>4</sup> Therefore policies relating to early childhood education, employment, and income distribution, which may be distant from the health portfolio, can have a profound effect on people's physical and mental health.

There is also evidence that once countries reach a high level of prosperity, and have been able to afford significant spending on health care, additional spending has diminishing returns. Figure 1, derived from Organisation for Economic Co-operation and Development (OECD) data for 43 middle- and high-income countries, shows the relation between health spending per capita (predominantly health care) and life expectancy, with certain countries, including Australia, marked. Apart from the USA, all countries in the right-hand two-thirds of that graph have much the same life expectancy, even though spending varies by a factor of about two to one. The USA, it can be seen, does not appear to have achieved good value-for-money spent on health care – an ongoing issue with dysfunctions in its private health insurance model.

This is not to underplay the importance of devoting resources – government or private – to health care, but it is a reminder that while policies to do with health care command attention in the political arena, in high-income countries like Australia people's health is influenced by many policies other than those within the health portfolio.

4 Wilkinson and Pickett 2009.

## Australia's health

By world standards Australians enjoy good health, but so do those who live in other high-income 'developed' countries. Australians' life expectancy at birth, a key indicator of a nation's health, is close to the highest in the world.<sup>5</sup>

An important factor contributing to Australia's good health is its young population. Most high-income countries have an aged population, but in Australia's case a sustained high rate of immigration has kept our population comparatively young. In 2018 the median age of Australians was 39; by contrast the median age of Italians, Japanese and Germans was above 45.<sup>6</sup> Our comparatively young population has kept demand for expenditure on health care under control. Also, because immigration policies are selective, immigrants tend to be healthier than the Australian-born population.

Nationwide indicators such as life expectancy can mask significant variations within population groups, however. Indicators of 'disease burden' show that people living in non-metropolitan regions have significantly poorer health and die younger than those in cities. Indigenous Australians have around 10 years lower life expectancy than other Australians (although the gap is closing) and they experience high rates of child mortality (twice the national average).

In terms of health risk factors Australia scores well on smoking but poorly on obesity (28 per cent of Australians aged 15 and over are obese), and our alcohol consumption is high by international standards.<sup>7</sup>

Mental health has become an area of increasing policy concern in recent years. According to the AIHW almost half of Australians between the ages of 16 and 85 'will experience a mental disorder such as depression, anxiety or substance use disorder at some stage in their life'.<sup>8</sup>

Mental health disorders tend to peak in late teenage years, but for almost all other conditions the prevalence of poor health is strongly correlated with age. Readers of this textbook are probably among those least likely to have more than occasional first-hand experience with health care services. Figure 2 shows the incidence of Medicare services (consultations with GPs and specialists, operations, and certain services provided by other health professionals) by age.

### *Government involvement in health care*

Within health portfolios governments' main concerns are generally about the funding of health care – either through public budgets (such as Australia's Medicare) or through private insurance, which is generally subject to regulation, tax concessions or direct subsidies. Also in some cases, most notably state

5 OECD 2017.

6 World Population Review 2018.

7 AIHW 2018a.

8 AIHW 2018a, 83.

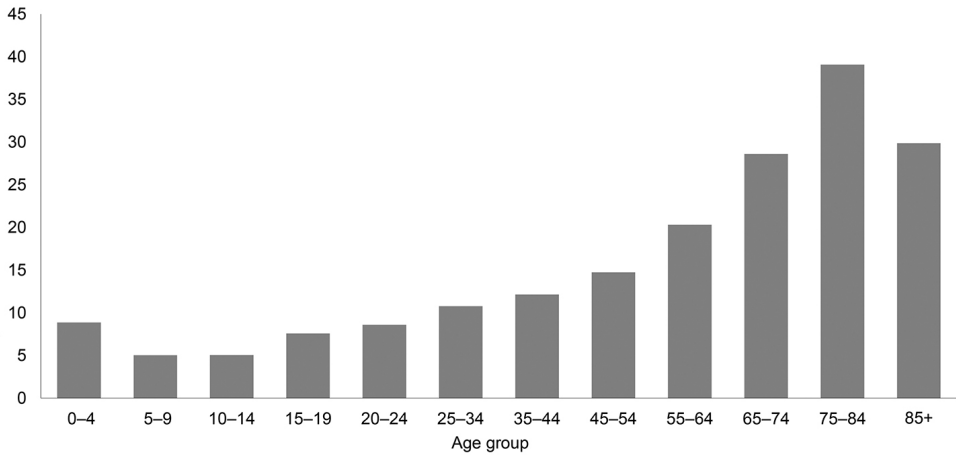


Figure 2 Medicare services per capita by age group, 2011–12. Source: data from Department of Health 2019, Medicare statistics 2011–12.

government-owned public hospitals, governments are involved in delivering health care. It is notable that what passes for public debate on health care often confuses governments' roles in *funding* and *providing* health care.

There are two broad principles driving government involvement. First, people seek some mechanism to share their outlays for health care through insurance, public or private. And second, there are reasons why there would be socially and economically unacceptable outcomes if health care were left to private markets.

#### *Community-rated health insurance*

In times long past, those who could not afford health care went without, or depended on the meagre offerings of charities. Colonial governments financed services to provide care 'for the hospital care or indigent class of the community', but such services provided in public hospitals were basic.<sup>9</sup> Also medical practitioners would see it as a *noblesse oblige* (the paternalistic idea that those with means had an unwritten obligation to help the less fortunate) to provide care for the poor.

There has been a slow transition in health care from a 'charity' model, whereby the poor or those with high needs had to rely on religious or similar charitable institutions, to one of community sharing, whereby through contributions to insurance-type arrangements, or through taxes, communities share all or part of their health care expenses. The first mutual benefit societies developed in New South Wales in the 1830s, but they covered only a minority of the population. It

<sup>9</sup> Sax 1984, 25.

wasn't until the period after 1945 that mechanisms for widespread sharing of health care costs were developed with increasing levels of government involvement.

Worldwide the development was along two paths. One path, in Britain and the Nordic countries, was for governments to take the prime role in funding, and in some cases providing, tax-financed health care for all. Many other European countries relied more on mutual benefit societies, which slowly extended their reach to become not-for-profit health insurers. The USA, by contrast, relied on insurance provided by for-profit companies. Some countries' policies were guided by the principle that whatever one's means, health care would be accessible to everyone on the same terms ('universalism') while others directed health care funding more at the poor or indigent, using means tests.

Much is written on the difference between these funding systems. There are, indeed, important differences: in particular America's reliance on for-profit insurance has resulted in that country having high-cost health care and in many people being uncovered. (As a proportion of GDP, America's total health care costs, private and government, are the highest of all OECD countries, and almost double the OECD average.<sup>10</sup>) But there are also important similarities in different countries' policies, the strongest being people's choice, generally backed through political processes, to share health care costs with one another, through some form of insurance, private or public.

Whatever our 'left' or 'right' political orientation, our acceptance or otherwise of the outcomes of competitive markets, and whatever our general norms on sharing, for health care we tend to be communal in our values, and we seek mechanisms of sharing and redistribution.

Individuals may believe that because they have good education and the reserves of accumulated savings they can weather most economic contingencies, but when it comes to health care most people have little knowledge of their risks. No matter how fit we are, life-changing illness or accident can occur at any time.

For our health care needs we are in what philosopher John Rawls calls an 'original position'.<sup>11</sup> When people are asked to choose the rules which should govern the distribution of wealth and income in a society, but when they don't know what place they will occupy in that society, they are in an 'original position'. In such situations people tend to favour rules that result in some degree of levelling – a redistribution from the well-off to the not so well-off.

At first sight there seems to be a simple way to fill this need: if people seek to share their health care costs with one another, then they should be free to do so through private insurance or through mutual societies. But such *laissez faire* arrangements fail to meet community needs.

In the comparatively unregulated markets of general insurance, where we insure our houses and cars, markets can work reasonably well. Insurance firms,

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10 OECD 2017.

11 Rawls 1971.

using indicators of risk, charge according to those indicators. Someone with a safe driving record pays a lower premium than someone with a string of accidents and offences. This practice is known as 'risk rating'.

But risk rating for health insurance would be extremely difficult because for many high-cost contingencies there are no clear risk indicators: debilitating conditions such as cancer can occur without any prior indicators.

The other main problem with risk-rated health insurance is political unacceptability. Private insurers would set prohibitively high premiums for older people, and could refuse to cover people who have pre-existing chronic conditions, who work in hazardous occupations or who have known risk factors. This would be unacceptable by most people's norms of social justice, remembering that the poor are often those with highest health care needs.

Therefore, through political processes that override market mechanisms, governments generally intervene to achieve what is known as 'community rating' for health insurance. That is a system where there is partial or complete equalisation of insurance premiums across the community, or even forms of subsidies from those with low needs to those with high needs.

Government-financed 'single-payer' systems, such as those in the Nordic countries, the UK and Canada, achieve community rating through their taxation systems. In terms of administrative costs these are by far the most efficient systems, because they tap into the scale economies and powers of compulsion of the taxation system, and to the extent that their taxation systems are progressive they achieve an equitable distribution of health care financing.

Achieving community rating through private insurance is more difficult. Private insurers incur high administrative costs, including the costs of competing for customers, and the regulations that are designed to achieve community rating are complex, often leading to perverse incentives.

#### *Public or private insurance*

It may seem odd that many governments should choose to use private insurance to do what the tax and public expenditure system, with all its controls and accountability, can do more efficiently and equitably. When private health insurance is compulsory (as in Japan and the Netherlands), or highly subsidised and incentivised (as in Australia), it can be considered as a 'privatised tax'. In terms of the impact on people's pockets, there is little difference between a tax collected by a body such as the Australian Taxation Office and a compulsory or near-compulsory payment to a health insurer: a cut in official taxes may be more than offset by a rise in private health insurance premiums.

The explanation lies partially in the politics of public accounting. Governments are often driven by a simplistic agenda of keeping taxes (official taxes as revealed in public budgets) low, and politically it is easier to blame private insurers for high and rising premiums.

But even in countries ideologically committed to private mechanisms, governments still become involved in at least partially funding health care. Table 1 shows how health care is funded in high-income 'developed' countries.

Whatever form insurance takes, those seeking health care usually have to make some out-of-pocket outlays. Such payments may be in the form of a fixed partial contribution (as with pharmaceuticals in Australia) or in the form of payments that accumulate before the insurer, usually a government insurer, covers all or a large part of further expenses. In high-income 'developed' countries, including Australia, out-of-pocket expenses are generally around one-fifth of total health care expenditure, although they can vary tremendously between different services.

#### *Market failures in health care*

Government involvement in health care isn't just about achieving some form of equity through community rating. There are also 'market failures' in the provision of health care. In the economists' model of well-functioning competitive markets there are many conditions to be satisfied, including easy and free exchange of information between suppliers and customers, and the absence of monopolisation or concentration of market power. Markets for clothes and fresh fruit come close to the ideal competitive model, but health care is far removed from it in three important ways.

First it is almost impossible for consumers to judge the quality of services on offer. Although there is no shortage of websites with health advice, in health care the consumer is generally in a position where he or she must place a high degree of trust in the professional judgement, education and expertise of the medical practitioners or other health professionals providing services. Economists refer to this as a situation of 'information asymmetry'.

Second, there is the potential for service providers, particularly medical specialists with highly specific skills, to exert a high degree of market power. We expect medical specialists to be well qualified, with tough university admission requirements and many years of rigorous training. This, in itself, makes for scarce supply, and when the professional bodies themselves have some power over accreditation they can restrict supply even further. Such supply limitations give service providers the power to set high prices.

Similarly for pharmaceuticals there is an inbuilt degree of market power enjoyed by large corporations. Bringing a new pharmaceutical to market involves large outlays on science and discovery and on clinical trials, easily running into hundreds of millions of dollars. In order to encourage firms to make such investments, governments offer pharmaceutical firms patent protection – usually in the order of 20 years. Without patent protection there would be little incentive for development of new medicines, but with patent protection pharmaceutical firms would be able to use their market power to charge very high prices for



**Table 1 Health care funding by source of funds (%), 2015**

|    |             | <b>Government<br/>schemes</b> | <b>Compulsory<br/>health<br/>insurance</b> | <b>Voluntary<br/>health<br/>insurance</b> | <b>Out-of-<br/>pocket</b> | <b>Other</b> | <b>Total</b> |
|----|-------------|-------------------------------|--|---|---------------------------|--------------|--------------|
| 1  | Denmark     | 84                            | 0  | 2   | 14                        | 0            | 100          |
| 2  | Sweden      | 84                            | 0  | 1   | 15                        | 1            | 100          |
| 3  | UK          | 80                            | 0  | 3   | 15                        | 2            | 100          |
| 4  | Norway      | 74                            | 11   | 0   | 14                        | 0            | 100          |
| 5  | New Zealand | 71                            | 9  | 5   | 13                        | 3            | 100          |
| 6  | Ireland     | 70                            | 0  | 12  | 15                        | 3            | 100          |
| 7  | Canada      | 69                            | 1  | 13  | 15                        | 2            | 100          |
| 8  | Australia   | 67                            | 0  | 10  | 20                        | 4            | 100          |
| 9  | Finland     | 61                            | 13   | 3   | 20                        | 3            | 100          |
| 10 | Iceland     | 52                            | 29   | 0   | 17                        | 2            | 100          |
| 11 | Austria     | 31                            | 45   | 5   | 18                        | 2            | 100          |
| 12 | USA         | 27                            | 23   | 35  | 11                        | 4            | 100          |
| 13 | Switzerland | 22                            | 42   | 7   | 28                        | 1            | 100          |
| 14 | Belgium     | 18                            | 59   | 5   | 18                        | 0            | 100          |
| 15 | Netherlands | 9                             | 71   | 6   | 12                        | 1            | 100          |
| 16 | Luxembourg  | 9                             | 73   | 6   | 11                        | 1            | 100          |
| 17 | Japan       | 9                             | 75   | 2   | 13                        | 1            | 100          |
| 18 | Germany     | 7                             | 78   | 1   | 13                        | 2            | 100          |
| 19 | France      | 4                             | 75   | 14  | 7                         | 1            | 100          |

Source: OECD Health Statistics (<http://www.oecd.org/els/health-systems/health-data.htm>), data for high income OECD countries (GDP per capita > \$US \$40 000 in 2017 at PPP).

pharmaceuticals. Therefore as a *quid pro quo* for patent protection governments generally intervene to control prices pharmaceutical firms can charge.

Third, when transactions are covered by insurance – public insurance such as Medicare or private health insurance through commercial or mutual bodies – there are incentives for both users and providers for overuse. When a service is free or heavily subsidised at the point of provision, the price signals which act as rationing mechanisms in most markets are absent. Economists refer to this phenomenon by the quaint term ‘moral hazard’.

Health economists argue about the extent of moral hazard in health care. Most (but not all) health care procedures involve some pain or discomfort, which tends to rule out frivolous demand on the consumer side. And there is evidence that even modest prices can deter people from using therapeutically necessary services.<sup>12</sup>

An enduring debate among health economists has been about the appropriateness of what is known as ‘fee-for-service’ health care. Fee-for-service care is a familiar and established system of payment, particularly for outpatient services. In Australia Medicare pays medical practitioners fixed fees for defined items of service. A common such service is ‘Item 23’ on the Medicare benefits schedule – a GP consultation of less than 20 minutes.

Some argue that fee-for-service encourages overservicing by practitioners and overdependence on health care by patients, suggesting in their place that other forms of payment should be used, such as what is known as ‘capitation’, where a medical practitioner or health clinic is paid according to the number of people in their catchment area (adjusted for age and known risk factors). Unsurprisingly critics of capitation argue that it can provide incentives for under-servicing.

#### *Drivers of health care expenditure*

Whichever measure is used – real expenditure per capita or expenditure as a proportion of GDP – health care expenditure is rising in almost all countries. During 2003 to 2016 real per-capita health care expenditure growth in OECD countries averaged 2.4 per cent a year, a rate that would see a doubling every 30 years.<sup>13</sup> Australia’s growth in health care expenditure has been only a little lower.<sup>14</sup> Because governments directly fund a large proportion of health care, and try to control the prices charged by regulated insurers and by those with market power, rising health care expenditure is a significant political concern.

The main driver of expenditure growth is usage, rather than the cost per service. So long as services are free or heavily subsidised at the point of delivery, there will be some pressure for overuse.

12 Corscadden et al. 2017.

13 OECD 2017.

14 AIHW 2018b.

Unless there is an increase in the supply of resources dedicated to providing health care, the result of unmet demand will be 'queuing'. People will find they cannot make an immediate GP appointment and people with non-urgent needs will be put on to hospital waiting lists while more important cases are attended to. Although waiting times command media attention and political criticism (the media often confuse queue lengths with waiting times), a health care system in which everyone could be attended to immediately is neither practical nor affordable. A waiting list allows scarce and expensive resources (medical specialists, nurses, diagnostic equipment) to be allocated to those who benefit the most. If there were so much spare capacity and those resources were underutilised for want of demand, that would be wasteful.

As we age we use more health care, and Australia's population, although young by world standards, is ageing. Over the long term Australians are having fewer babies, immigration as a proportion of the population is falling, and we are living longer. It should be noted, however, that older Australians now are much healthier than they were a generation or two ago. Some health care costs, such as those associated with treatment of cancer, tend to be concentrated in the last few years of life, and if we live longer those costs are deferred.

Another driver of health care costs, often mentioned, is new technology. In most industries new technologies result in unit cost reduction, and it is certainly the case in health care, as in other industries, that information and communication technologies have helped reduce administrative costs. But there is also a flow of expensive technologies that offer new opportunities to diagnose or cure diseases or to ameliorate their effect, particularly pharmaceuticals. Technologies based on genetic manipulation and bespoke treatment for individuals are just emerging.

Some technologies that have developed and been refined in recent years, such as magnetic resource imaging (MRI), allow for earlier detection of conditions than would have been possible in times past. Early detection of conditions can save lives, allowing for timely and low-cost interventions (such as the removal of small cancerous growths) or can promote changes in lifestyle. But such diagnostic improvements can also lead to excess treatment of conditions that pose little threat in themselves, such as slow-growing tumours that would be overtaken by other causes of death.

#### *Achieving value-for-money in health care*

Both in their own role in funding health care, and in their broader role in helping people make well-informed decisions with their individual resources (a consumer protection function), governments are concerned with achieving value-for-money in health care.

A prime concern is to ensure that health care interventions – pharmaceuticals, operations – are effective. Do they achieve what they are intended to achieve? Clinical trials of pharmaceuticals are about establishing a new drug's effectiveness,

including detection of unexpected or undesirable side-effects. Similarly, there can be evaluations of operations to find which surgical procedures are most effective or whether pharmaceutical treatments can substitute for surgery, for example.

As a general rule, governments seek evidence on the effectiveness of health care interventions. The gold standard, as in other areas of public administration, is 'evidence-based policy'. But it is a tough standard in health care. Research is difficult and expensive, in part because there are not standard conditions and there are not standard procedures. And there are ethical considerations in experiments involving people: is it ethical to conduct control experiments in which some patients are given one form of operation while others are given another form?

Even when the effectiveness of a form of treatment is established, the question of value-for-money arises. A new pharmaceutical may be very effective in prolonging the life of cancer sufferers, but if the drug is very expensive, and if the prolongation of life is only short, could scarce public money be better directed to where more health benefits could be enjoyed?

Such considerations concern the basis of policy-makers' job assignment in a democracy. In the regulations they design or implement, or in the advice they give governments, can they differentiate between the needs of different people? Can they make hard and cold evaluations that would lead to a certain person being denied a life-extending pharmaceutical so that a limited budget can be spent on suicide prevention for adolescents for example?

In one frame, such considerations involve the policy maker having to say one life is worth more than another. In another frame, however, it is simply a question of the best allocation of scarce resources. A road authority with a limited budget and a brief to make roads safer would be remiss if that money were not spent on areas where the best outcomes could be achieved. Similarly, in evaluating health interventions, policy makers strive to find value-for-money in terms of outcomes. Such is the essence of cost-benefit analysis, a basic technique in the policy maker's toolbox.

What therapies give the best outcomes and what do they cost? One measure is to consider how many extra years of life, on average, result from a therapy with a given cost. A more refined analysis is to apply some weighting based on the quality of those life-years. One such metric is the health-adjusted life expectancy (HALE) – the average time an individual can live without disease or injury.<sup>15</sup> Another is the quality-adjusted life year (QALY), where a weight between 0 (death) and 1 (ideal health) is assigned, and yet another is the disability-adjusted life year (DALY).

While such metrics implicitly put a value on life, the Australian Institute of Health and Welfare (AIHW) qualifies the use of such metrics with the statement: 'However, the use of health state preferences and DALY or QALY measures to quantify loss of health or health gain carries no implication that society will

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15 AIHW 2017a.

necessarily choose the maximisation of health gain as the main or only goal for the health system.<sup>16</sup>

Whatever form of evaluation is used, it is probable that in coming years, as techniques of data capture and analysis improve, more evaluative material will become available in the health systems.

*The changing nature of health care – from acute conditions to chronic conditions*

Partly as a result of changed lifestyles, and partly as a result of new therapies, the nature of health care has been changing over the long term.

Over most of the 20th century health care was mainly about curing what are known as ‘acute’ conditions, such as infections and injuries. As new pharmaceuticals became available, and as regimes of treatment improved, conditions which were once fatal became curable, or at least manageable. For example, in the 50 years to 2017, the cardiovascular disease death rate in Australia has fallen by 82 per cent.<sup>17</sup> Some of this improvement is because of lifestyle improvement, some is because of early detection, and some is because of clinical management of people with heart disease or risk factors.

This means that many more people, particularly as they age, are living with conditions that in earlier periods would not have been survivable. Much of the task of health care has been a shift from curing acute conditions to management of ‘chronic’ conditions such as diabetes, hypertension and dementia.

As people live longer with manageable chronic conditions, the boundary between health care and care of the aged becomes less clear. This blurring of boundaries is described by a former head of the Health Department as a ‘major shift in demand underway because of Australia’s ageing population, with chronic illness and the frail aged now dominating the burden of disease.’<sup>18</sup> In high-income countries, while heart disease and stroke remain the leading eventual causes of death, the incidence of death from Alzheimer’s disease, Parkinson’s disease and other dementia has trebled over 20 years.<sup>19</sup>

The political economy of health care

Australia’s set of health care arrangements is complex – so complex that it would be inaccurate to call it a ‘system’. The term ‘system’ implies a degree of deliberate design to ensure that all the parts come together and that they operate according to the same principles. But Australia’s health care arrangements are fragmented, each of the main parts having its own provenance.

16 Mathers, Vos and Stevenson 1999, 12.

17 AIHW 2017b.

18 Podger 2018, 197.

19 WHO 2018.

These arrangements have been shaped by competing ideologies, competing interest groups, the inertia of established practices, historical division of Commonwealth–state responsibilities, and constraints imposed by interpretations of the Australian Constitution.

*Civil conscription and the British Medical Association*

Although the Commonwealth had been involved in public health and in health care for soldiers and veterans, it was in the postwar years that it was to become strongly involved in health care. Well before the Pacific War ended, the federal government had been planning a comprehensive national welfare scheme that was to include health services, a basic feature of which was provision for a salaried (rather than fee-for-service) medical service, similar in ways to Britain's National Health Service.

Such an extension of Commonwealth powers met with fierce opposition from the British Medical Association (BMA), the organisation representing Australia's medical practitioners. Calling on the emotionally charged conflicts about military conscription in the 1914–18 war, the BMA presented the idea of a UK-style single-payer national scheme as a form of 'civil conscription'.

Partly to buy peace from the BMA, and partly to consolidate its authority, following a High Court disallowance of the Commonwealth's authority to make laws on certain social services, the Chifley Labor government put forward a constitutional amendment to give the Commonwealth powers to make laws for 'the provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorise any form of civil conscription), benefits to students and family allowances'. The amendment, with its 'no conscription' carve-out, was easily passed.

At the same time the Menzies Liberal opposition was strongly opposed to any tax-funded scheme, preferring a contributory scheme for health insurance.

Hence were established the ideological and interest-group divisions which frame health policy to the present.

The other constraint on coherent policy has been division of Commonwealth–state responsibilities, because long before the Commonwealth even existed the states were involved in funding and providing public hospitals.

So rather than a coherent, integrated health system, with all components working together under the same design principles, Australia has a set of arrangements, some private sector, some government, some Commonwealth, some state, some free at the point of delivery, some with out-of-pocket expenses, some universal, some means-tested. They come together in a process that health economist Sidney Sax called 'a strife of interests'.<sup>20</sup>

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20 Sax 1984.

*Seventy years of muddling through*

Charles Lindblom coined the term ‘muddling through’ to describe a policy development process whereby policy makers build on what has gone before, even if the resulting policy does not align with what they have designed from a blank slate.<sup>21</sup> It’s analogous to the way a series of additions may be made to an old house, in preference to pulling it down and starting from scratch.

While the Chifley government was thwarted in its attempts to develop a universal tax-funded health system, in 1948 it managed to introduce the Pharmaceutical Benefits Scheme (PBS), initially providing a limited number of free life-saving and disease-preventing drugs, using the purchasing power of government to secure reasonable prices. The Menzies (Liberal–Country Party Coalition) government, elected in 1949, pragmatically retained and extended the PBS, and, apart from the introduction of a co-payment in 1959, the essential architecture of the PBS remains largely unchanged.

An important provision of the PBS is the use of cost–benefit analysis to decide the price at which pharmaceuticals will be listed and therefore subsidised. If the supplier cannot meet the Commonwealth’s price, the drug does not become listed. Because the manufacturing cost of most drugs is low, most companies agree to listing at the Commonwealth price. Pharmaceuticals are similar to computer software, in that almost all of the cost is in development, while the per-unit cost is very low.

This is the only case of the Commonwealth using its purchasing power to set prices and to regulate what will and will not be paid for or subsidised. Politically it’s easier to take on the largely foreign pharmaceutical firms rather than the local medical lobby.

The next major initiative was by the Whitlam (Labor) government, in office from 1972 to 1975. It introduced a universal tax-funded scheme known as ‘Medibank’ (not to be confused with the private insurance firm of the same name). Its main elements were free access to public hospitals and a range of other services, most notably free or heavily subsidised access to medical services. Medical practitioners would be paid on a fee-for-service basis, and would remain in private practice, thus avoiding the ‘no conscription’ constraint. Hospitals and their funding remained under state control, with funding negotiated in a series of agreements between the Commonwealth and the states.

When it was introduced to parliament Medibank met with furious opposition, from the medical lobbies, the private health insurers and the Coalition opposition who effectively controlled the numbers in the Senate. Medibank became law only in 1974 following a double dissolution election and a joint sitting of parliament.

The Fraser (Coalition) government, in office from 1975 to 1983, demolished Medibank in a series of small steps, and by 1979 health funding had essentially

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21 Lindblom 1959.

reverted to the pre-1974 model, relying on private insurance. Publicly funded medical benefits were reduced, free access to public hospitals was restricted to those meeting means tests, and an income tax rebate of 32 per cent was introduced for people with private health insurance.

The Hawke–Keating (Labor) government, elected in 1983, reintroduced Medibank under the name ‘Medicare’, and eliminated subsidies for private health insurance. Private health insurance had achieved 68 per cent coverage under the previous government’s incentives. By the time the Hawke–Keating government lost office in 1996, coverage had fallen to 33 per cent.

The Howard (Coalition) government set about restoring a raft of incentives to support private health insurance, many of which were designed to entice younger people to take insurance to subsidise older members. Almost straight away coverage rose to 45 per cent of the population and it peaked at 47 per cent in 2015 before starting to fall back. The Howard government’s reversal of Labor’s policy was less severe than the reversal that had occurred under the Fraser government: notably it did not apply a means test to access public hospitals, which remained free, but there was a subtle expectation, encouraged by taxation incentives, that the better-off would use private insurance to buy private care in private hospitals. Ideologically it was a partial shift from health care as a universal service, to a service for the needy, sometimes referred to as a ‘two-tier’ system.

The Rudd–Gillard (Labor) government, in office from 2007 to 2013, maintained support for private insurance and the Abbott–Turnbull–Morrison (Coalition) government essentially maintained the status quo. The election of 2016 had seen the retention of Medicare as a major issue.

Labor governments are inclined to stress universalism as a principle underpinning health care policy. That is, the idea that all should have access to health care, regardless of means, and that clinical need rather than income or wealth should determine allocation of scarce resources. Coalition governments tend to stress ‘choice’, and the idea that government services should be more directed to those in need. Some policy analysts tend to classify health care policy as ‘social expenditure’, evaluating it in terms of equity outcomes, while others tend to see health care in terms of correcting market failure, assessing it on economic criteria.

### *The muddle*

While in most high-income ‘developed’ countries there is a degree of stability in health care financing, that is not the case in Australia. A series of policy reversals, modifying but not redesigning existing policies, has left Australia with a patchwork and complex set of arrangements.

Figure 3 shows one face of this complexity – the ways different health care programs are funded. In aggregate terms Australians draw on governments, mainly the Commonwealth, for about 70 per cent of their health care costs, private insurers



## Health policy

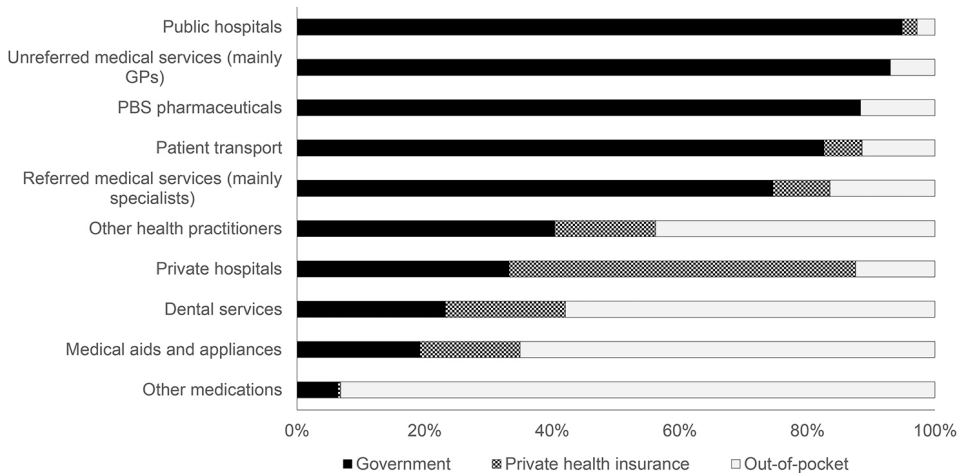


Figure 3 Health expenditure by source of funds, 2016–17. Source: data from AIHW 2018b, table A3. Recurrent expenditure only, not including research, administration, public health and funding from other sources comprising 3% of expenditure.

for another 10 per cent, and their own pockets for the remaining 20 per cent. But this varies tremendously between programs. Public hospitals are essentially free, funded through joint Commonwealth–state agreements. For pharmaceuticals, patients must make a capped co-payment, with the co-payments varying according to patients’ means. For dental services, most of the payment is from patients’ own funds, with some through subsidised private insurance and programs for targeted groups. Private hospitals are funded mainly through private insurance, the Commonwealth contribution a set of subsidies which make up about a third of the net cost.

Such complexity inevitably leads to duplicated bureaucracies and high transaction costs. It leads to gaming and perverse incentives when different government agencies (sometimes in different tiers of government) try to meet their own financial targets by shifting costs to different programs. For example, payments for pharmaceuticals come out of state budgets for patients in state hospitals, but out of the Commonwealth-funded PBS for others. And it probably leads to people seeking some care from services that are free or low-cost at the point of delivery (either through Medicare or private insurance), when other services with higher out-of-pocket costs would be more efficient in terms of overall costs and benefits.

Further, a lack of system integration means that people do not receive the timely attention. The Productivity Commission reported in 2015 an opportunity to get far more out of our health system through better use of measures that come into play before people become involved in expensive hospitalisation.<sup>22</sup> Effective

22 Productivity Commission 2015.

promotion of healthy lifestyles can reduce the overall demands on health care. Similarly, well-designed primary care – particularly care by GPs – can avoid some hospitalisations.<sup>23</sup>

Then there are problems in defining ‘health care’ and therefore what procedures are to be eligible for public subsidy. Should dietary supplements be included? Gyms? Acupuncture? Should some presently subsidised procedures be excluded? The boundary enclosing ‘health care’ can never be well defined, because it is determined not only by cost–benefit considerations, but also by community values.

Each part of our health care arrangements may be working well, but the concern of the Productivity Commission and of many health economists is whether these arrangements are coming together in the best way.

Those who are familiar with economic concepts would recognise the issue as one of the difference between *technical efficiency* and *allocative efficiency*. Each part may be operating in the most cost-effective way possible – that is, they may be achieving technical efficiency – but there could possibly be better outcomes overall if there were some reallocation of resources to achieve better performance from an overall perspective. That would be an improvement in allocative efficiency.

For example, there have been great strides in use of what are known as ‘diagnostic related group’ or ‘casemix’ payments in the way governments pay for public hospital services. Although the staff themselves may be salaried, the relevant state government pays a set amount for each defined procedure – so much for surgical treatment of a heart attack, so much for a caesarean section, and so on. It’s a form of ‘output-based funding’, aimed at making sure hospitals achieve best value-for-money or technical efficiency.

But even if public hospitals are doing as well as they can in terms of technical efficiency, it is still possible that there could be better health outcomes if more resources could be put into primary care or into promotion and prevention. Managerialist techniques concerned with efficiency in individual parts of a system can distract attention from the need to attend to the performance of the entire system, can lead to cost-shifting, and can often lead to a sub-optimal allocation of resources.

Improvements in technical efficiency will probably proceed with uptake of administrative technologies (where the health care sector still has some need for catch-up), such as electronic health records and better use of data, but there will always be constraints imposed by privacy concerns and the need for individual attention. Some aspects of health care, particularly where health care merges into aged care, will remain labour intensive, which means that as other sectors become lower-cost through labour-replacing technology, the cost of health care may rise faster than costs in other sectors of the economy, with implications for funding. Economists know this phenomenon as the ‘Baumol effect’.<sup>24</sup>

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23 Starfield 2005.

24 Baumol and Bowen 1966.

## Conclusions

Despite inconsistencies, boundary problems and messy funding, Australians achieve good health outcomes. In an evaluation of the health care arrangements in 11 high-income countries, the Commonwealth Fund gave Australia fourth place – behind the UK, Switzerland and Sweden. Australia scores well on quality of care, but comparatively poorly on access. The access problems in Australia relate mainly to costs and difficulties paying medical bills, particularly relating to co-payments in private insurance.<sup>25</sup>

Many decades of incrementalism have delivered Australia a set of arrangements which work, but which, by most measures, could work better if the parts could be brought together as an integrated system, particularly in terms of Commonwealth–state divisions and in developing more coherent and equitable funding arrangements.

The adjustment of our arrangements from a focus on acute care to one based on chronic care is ongoing. Also there is still a slow transition from what once was a labour-intensive set of individual professional practices to a more technology-intensive service industry model, which will still have to meet community expectations of high-quality individual care and compassion. Some emerging technologies, based on genetic manipulation, could have profound effects on our health care arrangements, as well as opening up new ethical questions.

There may be scope for those with means to contribute more from their own pockets to their own health care. This is a normative question, which needs to be put to the community. Australians may opt for more sharing, or they may opt to pay more from their own pockets.

Whatever the outcome of such deliberations, there will almost certainly be a need to provide more collective funding for those with high needs or limited means. If governments are determined to pursue a ‘small government’ policy, they will probably try to achieve this collective funding through private health insurance, in spite of its costs and difficulties in achieving community rating, cost control and administrative efficiency. Otherwise the most equitable and efficient means of funding growing health care expenditure is through higher taxes.

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<sup>25</sup> Davis et al. 2014.

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# Immigration and multicultural policy

Andrew Parkin and Leonie Hardcastle

## Key terms/names

asylum seekers, border protection, border security, environmental sustainability, ethnic communities, family immigration, humanitarian immigration, immigration, international students, multiculturalism, occupational immigration, population policy, temporary immigration, White Australia policy

Australia has been shaped by immigration. Nearly half of today's Australian population consists of immigrants born elsewhere or their first-generation descendants. As a consequence of its pattern of immigration, Australia is also a multicultural country. This chapter examines the policy evolution that has produced this situation. It also examines the distinctive political dynamics of the policy-making process pertaining to immigration and multiculturalism.

## What's at stake?

Immigration and multicultural policies directly shape Australia's social composition and the social relations between and within its constituent communities. At the national level, the immigration policy settings mould the evolution of Australia's overall ethnic character, an impact which can stir deep emotions. Over time,

Parkin, Andrew, and Leonie Hardcastle (2019). Immigration and multiculturalism. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

immigration numbers and the resultant multicultural transformation of the electorate have affected the nature of Australian political processes.

At the community level, immigration and multicultural policies shape and structure a potentially awkward social and political balance. On the one hand, there is a need to respect the multiple ethnic, cultural and religious identities with which Australians collectively now identify. On the other hand, harmonious and productive intercultural relations among Australians depend on some transcendence of these particularistic identities.

While it is shaping Australian society at its broadest levels, the implementation of immigration policy is also deeply personal for those affected. People's life trajectories are potentially transformed by the decisions emerging from the administrative process established by the policy parameters.

#### Characteristics of this policy domain

Probably more than in most policy domains, an appreciation of the historical evolution of immigration policy is needed for a full understanding of the challenges and dilemmas characterising today's policy debates.

#### *Historical context*

The history of Australian immigration policy implementation is embodied in the sequence of annual 'net immigration' numbers, encompassing more than a century and a half, reported in Figure 1. 'Net immigration' here means the number admitted to Australia each year less the number recorded as emigrating out of Australia in the same year.

The sequence in Figure 1 begins in the early 1860s, a period when a 'White Australia' policy was becoming established. Until the late 1940s, periods of substantial net immigration were episodic and intermittent. These immigrants came almost entirely from the British Isles, including Ireland, and can be described in ethnic terms as Anglo-Celtic. They and their descendants overwhelmed the Indigenous population and established the basic political institutions and processes which Australia still features.

There were some exceptions to the Anglo-Celtic predominance (such as German and Italian immigrants) but the most notable perceived challenge was the arrival of a significant number of Chinese during the gold rushes of the 1850s. It was this challenge which led the Australian colonies, and from 1901 the new Australian government, to formalise the so-called White Australia policy. The policy precluded immigrants from Asia and later proscribed the continued use of indentured Pacific Islander labour. Various motivations explain why the White Australia policy was adopted; these include the protection of wages and working conditions from the potential impact of low-wage competition as well as a racist

or ethnocentric distaste for population diversity.<sup>1</sup> The USA and Canada, likewise emerging in this period as prominent immigration-based ‘new world’ nations, adopted similar policies.

Significant change began in the late 1940s. The Chifley Labor government, followed by supportive Coalition governments thereafter, embarked on a mass immigration program that transformed Australia. The change instigated in the late 1940s is clearly visible in Figure 1 as an immigration surge that continues today. Britain was no longer the exclusive source; the new immigrants also came from a wide range of European countries, beginning with postwar refugees from eastern Europe, followed by substantial numbers from northern and later southern Europe (most notably, Italy and Greece). From the mid-1960s, the admission of small numbers from Asia signalled a quiet abandonment of the White Australia policy.<sup>2</sup>

### *The modern period*

In 1973, the Whitlam Labor government formally discontinued the White Australia policy.<sup>3</sup> It also instituted a new domestic policy of multiculturalism which, overturning a rhetoric of assimilation which had accompanied the post-1940s ethnic diversification, celebrated Australia’s growing cultural diversity.

Immigration numbers surged again under the Fraser Coalition government from 1976. It was the Fraser government that elaborated the aspirational notion of multiculturalism into a range of policies supporting ethnic communities.

This period also saw the formalisation of the immigration policy regime which, in essence, still prevails today. It involves selection criteria which do not formally discriminate on the basis of race or national origin. It also involves three principal selection categories permitting immigrant admission on the basis of *occupational skills* (measured by a ‘points test’ scoring such factors as qualifications, English-language proficiency and age), *family connections* (mainly admitting the spouses, fiancées and dependent children of Australian residents) and *humanitarian considerations* (including refugees as narrowly defined under international conventions and others deemed in humanitarian need). This formally non-discriminatory and category-focused immigration system has now been in place in Australia for more than 40 years. The social impact of Australia’s immigration experience over the past 70 years has been transformative. The 2016 Census revealed that 26 per cent of Australians had been born elsewhere; 40 per cent of these immigrants had a national origin somewhere in Asia with 10 per cent originating in the Middle East or Africa.<sup>4</sup> Australia’s cultural transformation has been particularly dramatic in the major metropolitan areas, especially Sydney and Melbourne.

1 Hardcastle 2010, chapter 5.

2 Betts 1999.

3 Tavan 2004.

4 ABS 2017a.



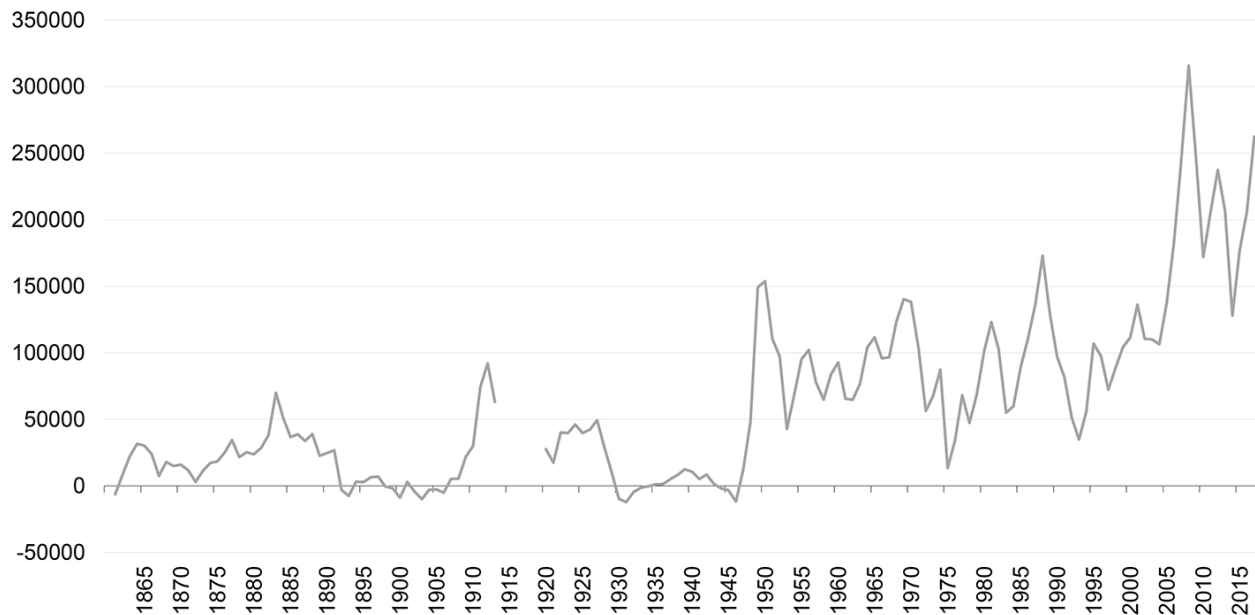


Figure 1 Australia's annual net immigration, 1861–2017 (number of persons). Source: data from ABS 2018; Phillips and Simon-Davies 2017; Vamplew 1987, 6–7.

Note: Different estimation methods may have applied at different times, so the chart is best understood as broadly indicative. The chart gap 1914–19 removes years where the data are distorted by the movement of service personnel associated with the First World War.

An immigration-driven transformation is also revealed in Australia's religious profile. Whereas in the late 1940s nearly all Australians professed affiliation with some version of Christianity, the proportion identifying as Christians in the 2016 Census had fallen to just over half. While 30 per cent of Australians now profess no religious affiliation (another radical change from the late 1940s), around 8 per cent (and nearly a third of immigrants arriving over the past ten years) identify with non-Christian traditions.<sup>5</sup>

### *The immigration regime*

Figure 2 charts how categorical preferencing within the immigration program has played out over recent decades. It reveals that immigrants admitted on the basis of a family connection predominated during Labor's lengthy period in office under the prime ministerships of Hawke (March 1983 to December 1991) and Keating (from then until March 1996). The Howard Coalition government, in office from March 1996, at first lifted the proportion admitted on the basis of occupational skills to about equal prominence as those with family connections. Then a decisive relative shift took place, preferencing applicants in the occupational-skills category. That decisive relative shift, consistent with a neoliberal policy emphasis on promoting economic growth and investment, has been maintained ever since. It survived the replacement of the Howard Coalition government by the Rudd–Gillard–Rudd Labor governments (December 2007 to September 2013) and has been maintained since then by the Abbott–Turnbull–Morrison Coalition governments.

Figure 2 also reveals the maintenance since the mid-1980s of a 'humanitarian' intake in the range of 11,000 to 20,000 per annum. The humanitarian program has two main components: an offshore component under which resettlement in Australia is offered to refugees and others with a humanitarian case located outside Australia, and an onshore component providing for claimants assessed to be refugees after arriving in Australia on a valid visa.

The humanitarian program looks relatively small in comparison to the family and occupational-skills categories, and over time represents a diminishing proportion of the total immigration intake. In comparison to other countries' involvement in international efforts to resettle those stranded in refugee camps around the world, the Australian humanitarian program is one of the more generous.<sup>6</sup> However, this sound record contrasts markedly with the harsh regime applying to asylum seekers seeking to enter Australia and claim refugee status outside the parameters of the humanitarian program. This is despite the number of such claimants reaching Australia being relatively low compared with the numbers seeking to enter other target countries, for instance in Europe.

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<sup>5</sup> ABS 2017b.

<sup>6</sup> ABC 2018.

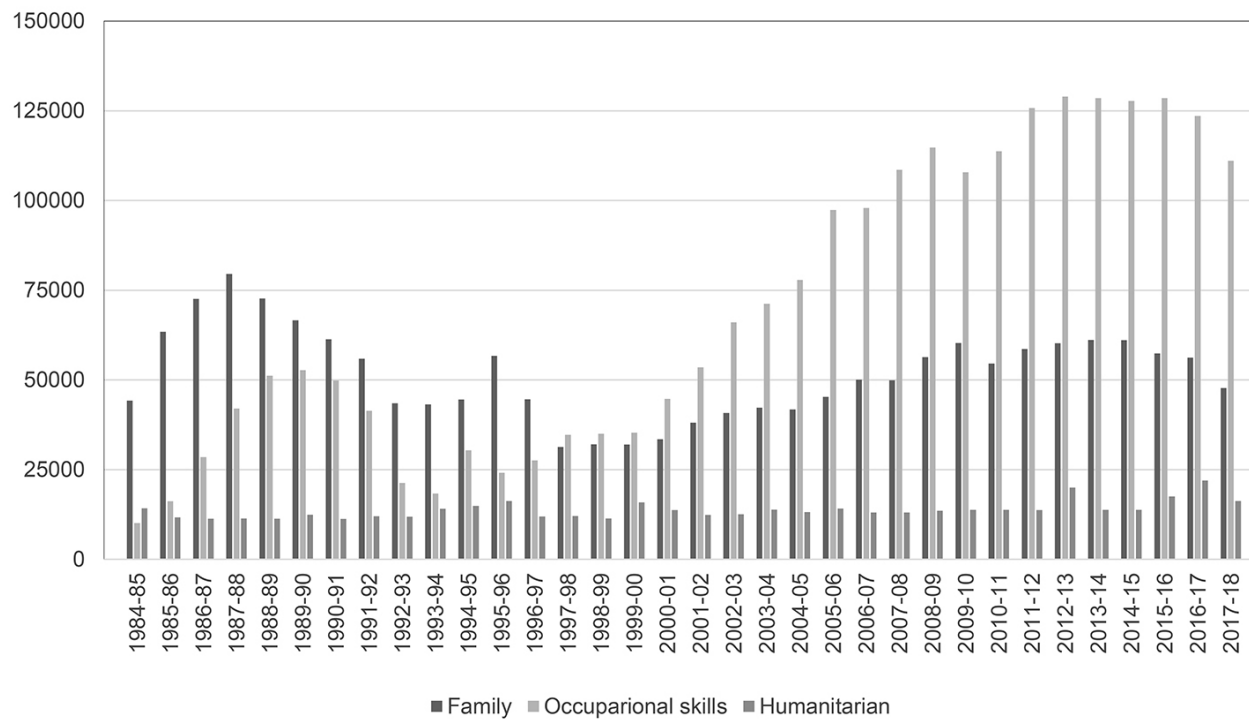


Figure 2 Australia's annual immigration admissions by category, 1984–2018 (number of persons). Source: data from DHA 2019; DHA 2018a; DHA 2018b; DIBP 2017; Phillips and Simon-Davies 2017, 3.

In the late 1970s, Australia's acceptance of Indo-Chinese 'boat people' had signalled a decisive end to the old White Australia policy.<sup>7</sup> Over time, however, political tolerance for the management of undocumented asylum seekers arriving by sea waned, especially as it began to be associated with organised 'people smuggling' networks.

The Keating Labor government in 1992 initiated the mandatory detention of asylum seekers after facing a resumption of maritime arrivals largely driven by events in Cambodia. A new flow of arrivals (sourced mainly from Afghanistan, Iran and Iraq) began in the 1999–2000 period under the Howard Coalition government. Campaigning for re-election in 2001, Prime Minister Howard capitalised on his government's refusal to accept a vessel, the *Tampa*, which had been diverted to Australia by asylum seekers. These asylum seekers were sent into detention, notably in Nauru and Papua New Guinea, instituting an offshore processing regime which has continued thereafter. The draconian approach did produce a virtual cessation of the maritime asylum-seeker arrivals.

After returning to government in December 2007, Labor under Prime Minister Rudd suspended the mandatory detention of maritime asylum seekers. Maritime arrivals (mainly Afghan, Iranian and Sri Lankan asylum seekers) later surged to unprecedented levels, including an extraordinary tally exceeding 25,000 arrivals in 2012–13. Many others tragically drowned at sea.<sup>8</sup> The Rudd and Gillard governments grappled with the cruel conundrum around what Prime Minister Rudd described as 'our responsibility as a government ... to ensure that we have a robust system of border security and orderly migration on the one hand as well as fulfilling our legal and compassionate obligations ... on the other'.<sup>9</sup>

Eventually, Labor reintroduced mandatory offshore detention<sup>10</sup> but this did not stave off defeat in the September 2013 election to Coalition parties whose 'stop the boats' and 'border protection' rhetoric dominated the campaign. The incoming Abbott Coalition government matched that rhetoric with further policy action. It launched Operation Sovereign Borders<sup>11</sup> under which unauthorised boats were intercepted at sea and not permitted to enter Australian waters. Asylum-seeker maritime arrivals again virtually ceased under this regime which has continued through the succeeding Coalition governments headed by Turnbull (September 2015 to August 2018) and then Scott Morrison (from August 2018).

In early 2019, political attention turned to the management of the asylum seekers, numbering more than a thousand, who had been sent to the offshore locations of Nauru and Papua New Guinea's Manus Island. An agreement with the USA allowed hundreds of these asylum seekers to be voluntarily transferred to the

7 Higgins 2017.

8 Refugee Council of Australia 2018a.

9 Rudd 2013.

10 DIBP 2013a.

11 Australian Border Force 2014.

USA.<sup>12</sup> The Morrison government was forced, by a parliamentary majority in both houses comprising the Labor opposition, independent and minor-party MPs, to allow detainees certified as needing medical treatment to be treated in Australia.

### *Temporary immigration*

The fraught politics around mainstream immigration and asylum seekers has perhaps obscured the significance of the substantial increase in what is termed 'temporary immigration'.

There are three principal categories of temporary immigrants, each of them carrying eligibility (under variable rules) to work in Australia:

- *International students* have become a prominent feature of the Australian education systems, most notably in the tertiary education sector. Some international students have post-study entitlements to remain temporarily in Australia for further work experience.
- *Temporary skilled immigrants* are admitted to work in what are supposed to be specific occupations or positions where employers find it difficult to recruit locals.
- *Working holidaymakers* are typically young adults permitted to undertake short-term paid work (such as seasonal work in regional horticulture).

Figure 3 shows the substantial, and increasing, scale of temporary immigration. Over the 20-year period since the late 1990s, temporary immigrant numbers have more than tripled. There is a connection between the temporary and permanent intakes, with a recent analysis finding that 'about half of the permanent visas grants are to people who are already in Australia as temporary immigrants'.<sup>13</sup>

Temporary immigration has attracted some political controversy. Some critics are concerned about its claimed impact on the integrity of, and job competition within, the Australian labour market; they might be assured by a Productivity Commission finding that 'recent immigration has had a negligible effect on the labour market outcomes of the local labour force'.<sup>14</sup> Many international students have evidently been exploited through underpayment of wage entitlements and poor working conditions.<sup>15</sup> An inquiry put in place by the Australian government has endorsed a finding that 'as many as 50 per cent of temporary migrant workers may be being underpaid in their employment'.<sup>16</sup> Some critics are uncomfortable with temporary immigrants being treated in effect as 'not quite Australian'.<sup>17</sup>

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<sup>12</sup> Lewis 2019.

<sup>13</sup> Productivity Commission 2016, 30.

<sup>14</sup> Productivity Commission 2016, 191.

<sup>15</sup> Howe, Stewart and Owens 2018.

<sup>16</sup> Migrant Workers' Taskforce 2019, 5.

<sup>17</sup> Mares 2016.

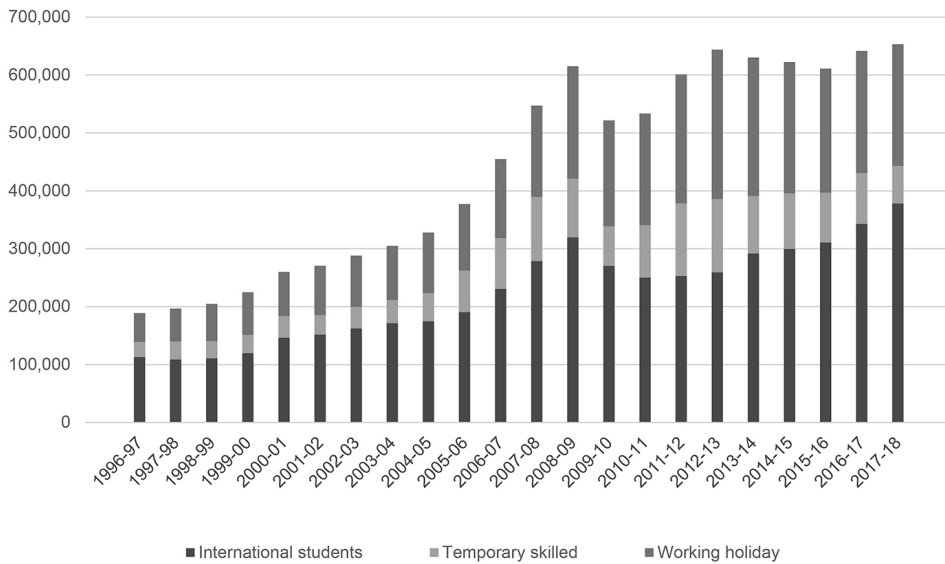


Figure 3 Australia's annual temporary immigration admissions by category, 1996–2018 (number of persons). Source: data from DHA 2018c; DHA 2018d; DHA 2018e; Phillips 2016; Phillips and Simon-Davies 2017, 3.

There have been claims that the temporary skilled program too readily overlooks the availability of qualified local recruits and/or permits an undesirable under-investment in the education and training that would support an upskilled local workforce.<sup>18</sup> Responding in part to such misgivings, the rules governing the temporary skilled program were significantly revised in April 2017, with the aim of ensuring, according to Prime Minister Turnbull, that ‘temporary migration visas are not a passport for foreigners to take up jobs that could and should be filled by Australians.’<sup>19</sup>

### *Multiculturalism*

Immigration policies over the past few decades have mostly been characterised by a reasonably firm, though occasionally unsteady, bipartisan support from the two major party groupings of Labor and the Coalition. A similar combination of substantial consensus interspersed by occasional vacillation has characterised the ongoing acceptance of multiculturalism as the policy framework for managing Australia's immigration-driven ethnic diversity.

There has long been some ambiguity about the degree to which multiculturalism has been intended to promote greater social cohesion and integration

<sup>18</sup> Kell 2014.

<sup>19</sup> Turnbull 2017.

or for maintaining cultural diversity and empowering cultural minorities. In general, the bipartisan position has favoured social cohesion and integration.<sup>20</sup>

The Fraser Coalition government (December 1975–May 1983) set in place much of the national administrative and institutional infrastructure for multicultural policies. Under the Hawke Labor government in 1989, a *National Agenda for a Multicultural Australia* proposed three justifications for multiculturalism: its respect for cultural identity, its alignment with social justice and its utilitarian virtues in facilitating economic efficiency. Importantly, the document also specified ‘limits’ which, in effect, asserted the necessity for a set of common values within ‘an overriding and unifying commitment to Australia.’<sup>21</sup> This kind of careful specification of both the claimed virtues and necessary limits of Australian multiculturalism has enabled the concept to adapt and survive ever since.

Perhaps the most serious challenge took place during the period of the Howard Coalition government (1996–2007). The Howard government seemed to downplay the terminology of multiculturalism and emphasised instead terms like ‘social cohesion’ and ‘citizenship.’<sup>22</sup> It introduced a ‘citizenship test’ under which immigrants seeking Australian citizenship would need to demonstrate a ‘working knowledge of the English language’ and ‘an understanding of basic aspects of Australian society, our culture, and our values and certainly some understanding of our history.’<sup>23</sup> Yet the Howard government’s policy documents also mirrored the Hawke Labor government’s in balancing the celebration of diversity with the affirmation of common values. Moran concludes that multiculturalism survived the Howard government ‘in practice if not in name.’<sup>24</sup>

The Rudd and Gillard Labor governments (2007–2013) reintroduced a commitment to multiculturalist terminology while also maintaining the now-familiar balancing of ‘shared rights and responsibilities.’<sup>25</sup> Continuity along these lines essentially continued under the Abbott–Turnbull–Morrison Coalition governments from 2013.<sup>26</sup>

Prime Minister Morrison lauded ‘our incredibly diverse multicultural society,’ ‘an open, tolerant, multicultural Australia’ and ‘the most successful immigration country ... in the world’ while also cautioning against a ‘retreat to tribalism.’<sup>27</sup>

An interesting consequence of fluctuations over time in the preferred terminology and in political priorities is the name bestowed on the government department responsible for immigration. Table 1 reports the succession of names since the mass immigration program began in the late 1940s. The recent rhetorical

20 Pakulski 2014, 23.

21 OMA 1989, vii.

22 Moran 2017, chapter 4.

23 Howard 2006.

24 Moran 2017, 109.

25 Australian Government 2011, 7.

26 Australian Government 2017.

27 Morrison 2019; Morrison 2018.

**Table 1 Departmental nomenclature 1945–**

|           |  |
|-----------|--|
| 1945–1974 | Department of Immigration  |
| 1974–1975 | Department of Labor and Immigration                                |
| 1976–1987 | Department of Immigration and Ethnic Affairs                       |
| 1987–1993 | Department of Immigration, Local Government and Ethnic Affairs     |
| 1993–1996 | Department of Immigration and Ethnic Affairs                       |
| 1996–2001 | Department of Immigration and Multicultural Affairs                |
| 2001–2006 | Department of Immigration and Multicultural and Indigenous Affairs |
| 2006–2007 | Department of Immigration and Multicultural Affairs                |
| 2007–2013 | Department of Immigration and Citizenship                          |
| 2013–2017 | Department of Immigration and Border Protection                    |
| 2017–     | Department of Home Affairs   |

Source: DIBP 2013b.

emphasis on citizenship and border protection is readily apparent; for one critic, the changed nomenclature reveals an unwelcome shift in focus, a ‘move from planning the nation’s future to policing its frontier’.<sup>28</sup>

#### Policy actors

Policy development and political debates around immigration and multiculturalism are shaped by a range of policy actors.

#### *Political parties*

Policy convergence and bipartisanship, rather than partisan conflict, has mostly characterised the role of the major political parties within this policy domain. There have been instances where this major party bipartisanship has wavered a little or where alleged differences have been exaggerated for tactical advantage in the heat of election campaigns (such as recent arguments about which side is tougher or more effective on ‘border protection’). Nonetheless, in broad terms, the major party bipartisan consensus has generally prevailed, especially on the fundamental structure of the immigration system.

<sup>28</sup> Button 2018.



However, bipartisan consensus is tested from time to time. Within the Coalition parties, there can be some sentiment which is sceptical of multiculturalism and instead favours the maintenance of common values. Within the broader membership of the Labor Party, reservations about the ethics of draconian 'border protection' policies and empathy for the plight of affected asylum seekers are not infrequently expressed.<sup>29</sup>

Minor parties and independents represented in the federal parliament offer a broader spectrum of perspectives: the Australian Greens have adopted a stance consistently favourable to higher immigration levels and sympathetic to asylum seekers while Pauline Hanson's One Nation has consistently supported a lower intake and is unwelcoming to asylum seekers.

### *Public opinion*

The range of views among Australian voters is somewhat more polarised. There is some dispute about whether survey data over time show majority support for or against current levels of immigration, with the answer probably dependent on the wording of the questions put to survey respondents.

The respected Australian Election Study (AES) national survey is conducted to coincide with each Australian national election. Figure 4 reports the findings for each AES since 1996 on the matter of whether respondents think the immigration levels at the time should be increased, kept the same or decreased. Of the three options, a decreased intake has mostly procured the highest level of support and has consistently been substantially better supported than an increased intake. On the other hand, advocates of a generous immigration intake could combine the 'increased' and 'kept the same' tallies to claim (with a few exceptions) majority support for at least maintaining the intake.

A Scanlon Foundation study through Monash University noted that, during 2018, 'a number of polls ... reported majority negative sentiment, in the range of 54–72 per cent, favouring a cut in immigration'. The Scanlon Foundation's own 2018 survey confirmed 'an increase in the proportion concerned at the level of immigration' but also indicated that 'support for a reduction remains a minority viewpoint' at 45 per cent of respondents.<sup>30</sup>

The same Scanlon Foundation 2018 survey found generally strong support for the proposition that 'multiculturalism has been good for Australia'. The Scanlon Foundation study also noted 'the level of negative sentiment towards those of the Muslim faith, and by extension to immigrants from Muslim countries' as 'a factor of significance in contemporary Australian society'.<sup>31</sup>

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29 Bramston 2018.

30 Markus 2018, 2.

31 Markus 2018, 3.

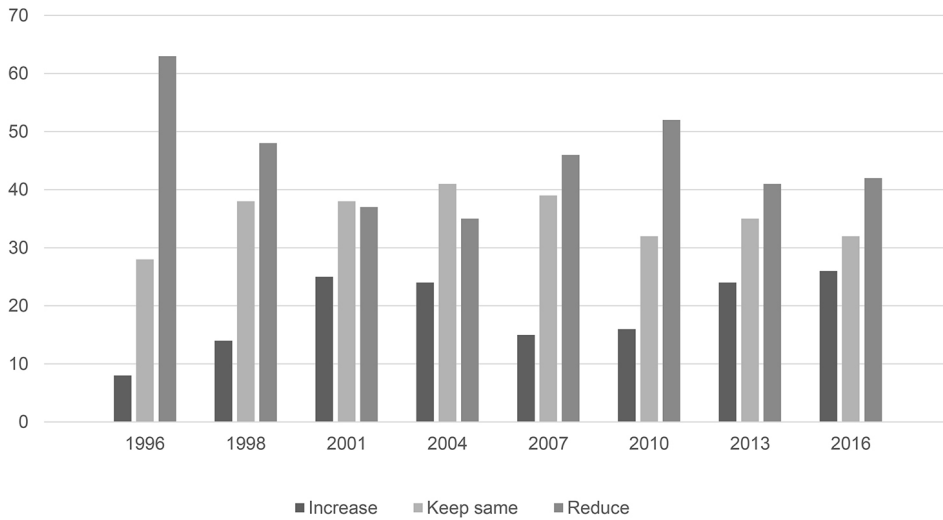


Figure 4 Attitudes to immigration levels: Australian Election Study surveys 1996–2016 (%). Source: data from Cameron and McAllister 2016, 100.

### Business

Business interests have generally supported relatively high levels of immigration. It creates a larger supply of potential workers, reduces upward pressure on wages and creates a larger consumer demand for business products.

Betts and Gilding have identified specific business sectors which receive a fairly direct stimulus from immigration as particularly vocal advocates of high intake levels; these sectors include ‘property developers and operators in the housing and construction industries’, ‘the Australian media [which] derive a large part of their advertising revenue from developers and real estate agents’ and ‘other businesses with a domestic market – ranging from gambling to financial services’.<sup>32</sup>

During public debates in 2018 about whether immigration intakes should be reduced, the business sector’s major umbrella organisations – the Business Council of Australia, the Australian Industry Group, the Australian Chamber of Commerce and Industry, and the Property Council of Australia – each declared its opposition to any cuts.<sup>33</sup>

Business organisations also tend to favour a relatively large occupational-skill-based intake in comparison with the family-based intake, because this can advantage them in the recruitment of staff. For particular corporations and business ventures, negotiating favourable arrangements to enable them to access temporary immigrants is also a priority.

<sup>32</sup> Betts and Gilding 2006, 43–4.

<sup>33</sup> McCauley and Koziol 2018.

*Trade unions*

The business sector's favourable stance towards high levels of immigration might be expected to be counterbalanced by scepticism from a trade union movement presumably focused on job protection for the current workforce. Australian trade unions have indeed been vocal critics of high levels of temporary immigration for its association with 'exploitation and denying job opportunities to local workers'.<sup>34</sup>

However, the trade union movement has generally been supportive of Australia's permanent immigration program. This was historically important in relation to Australia's radical shift to mass immigration from the late 1940s.<sup>35</sup> More recently, the ACTU and the union United Voice have joined the Australian Industry Group business lobby in a statement declaring that 'Australia's permanent migration program is essential to Australian society and economy' and that 'we ... do not support any reduction to the scheme'.<sup>36</sup>

*Ethnic communities*

Australia's immigration program has fostered the creation of ethnic-minority communities of first-generation members and descendants. These communities naturally have an interest in immigration policy, especially as it applies to rights of admission for other family members, and a particular stake in multicultural policy. They do not necessarily harbour a different range of views on other immigration-related issues; for example, according to Jupp and Pietsch, '[s]ome polling suggests that many "ethnic" Australians were just as unsympathetic as the "Anglo" majority to asylum seekers who were perceived to be jumping the gun, especially when that affected family reunion for their own group'.<sup>37</sup>

Seventy years of large-scale immigration have not changed the basic structure of the Australian political system, particularly its domination by the two major party blocs (the Liberal-National Coalition and Labor). However, the political process, and especially the parties, have adjusted to the changed nature of the electorate. Parties now actively court ethnic-minority communities.

Sometimes the policy preferences arising from ethnic-minority communities are articulated through ethnic community organisations, co-ordinated nationally through the Federation of Ethnic Communities Councils of Australia (FECCA). FECCA and its allies were claimed to have had a significant influence over the Hawke Labor government in securing a high proportion of immigration places for family-connection applicants.<sup>38</sup> If that outcome is a test of the influence of the 'ethnic lobby', then its influence seems to have since waned.

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34 McManus 2018.

35 Warhurst 1993.

36 Migration Council of Australia 2018.

37 Jupp and Pietsch 2018, 665.

38 Betts 1991; Birrell and Betts 1988.

There is evidence that the same waning impact also applies to patterns of 'ethnic voting'. The Labor Party had been quite successful during the 1980s and 1990s in disproportionately attracting voting support among members of the Italian Australian, Greek Australian and Maltese Australian communities. Labor's relative advantage within those communities, however, seems to have declined since then. Australia's diverse Asia-origin communities likewise seem to have been disproportionately attracted to Labor in the 1990s but again that partisan distinction seems to have since declined.<sup>39</sup>

Nonetheless, an association between ethnic minorities and support for Labor remains visible on the electoral map. An analysis of the 2016 election identifies a raft of electorates in 'central and eastern Sydney ... and in northern, western and south eastern Melbourne ... [as] the true Labor heartland and the core of multicultural Australia'.<sup>40</sup> There may be impacts in particular parliamentary seats; the loss by then Prime Minister John Howard of his own seat at the 2007 federal election was attributed in part to the relatively high proportion of Chinese Australians in that electorate.<sup>41</sup>

#### *Advocacy and support groups*

The issues around humanitarian immigration, and particularly asylum seekers, have mobilised an articulate, informed and often passionate network of advocacy groups pursuing what they regard as more humane policies. The scale of this sector, ranging from faith-based organisations<sup>42</sup> to social-movement activists,<sup>43</sup> can be gauged from the 200 organisations affiliated with the umbrella Refugee Council of Australia.<sup>44</sup>

#### Making immigration and multicultural policy

Each year, Cabinet determines an immigration intake target for the coming 12 months and the actual intake normally comes out reasonably close to the announced target. This is an impressive degree of precision in view of its basis in hundreds of thousands of individual applications and in view of some international evidence of other countries finding it difficult to match immigration policy intentions with actual outcomes.<sup>45</sup>

39 McAllister 2011, 134–6.

40 Jupp and Pietsch 2018, 671.

41 Jupp 2009.

42 Wilson 2011.

43 Tazreiter 2010.

44 Refugee Council of Australia 2018b.

45 Boucher 2013; Burstein, Hardcastle and Parkin 1994.

In recent years, there has been a formal opportunity for stakeholder input into the setting of targets.<sup>46</sup> However, the encapsulation of the target/ceiling within the annual budget process, and its implementation thereafter through administrative channels, gives it some insulation from the scrutiny that accompanies processes requiring more specific parliamentary approval. Policy making about Australia's response to asylum seekers, both potential arrivals and those later held in detention, is somewhat more open in terms of public debate, but is constrained in practice by the general bipartisanship characterising the policy response.

#### International and intergovernmental interactions

Constitutionally, the arena of Australian immigration policy making is focused at the national level. Section 51(xxvii) of the Australian Constitution gives the Australian national government clear and unambiguous authority over immigration policy. International law provides unambiguous recognition of national sovereignty in relation to the rights of countries to determine their own policies. Nonetheless, in practice, the Australian government needs to take into account both external/international and internal/domestic nuances.

National sovereignty is potentially subject to international influence if a country chooses to enter into international treaties. For example, Australia has long been a signatory to the 1951 Refugee Convention. Australia is also a signatory to the United Nations (UN) Convention on the Law of the Sea which governs interactions in international waters beyond the jurisdiction of Australia's own maritime boundaries.<sup>47</sup> There have been persistent claims that some of Australia's policies and practices in relation to the interdiction of asylum-seeker boats and the indefinite offshore detention of asylum seekers violate some of its international obligations under such treaties.<sup>48</sup> The only recourse, even when the complainant is the UN,<sup>49</sup> is essentially via public condemnation and political protest.

Foreign policy and trade considerations provide another international constraint. For example, Australia's policies and practices on maritime asylum seekers can be a particularly sensitive issue affecting its important relationship with Indonesia, from where most of the boats depart. Australia's immigration-driven cultural diversification can assist international trade by opening up, through detailed local knowledge and personal contacts, new export markets. International trade agreements to which Australia is a party may in turn carry obligations to grant temporary entry and employment rights to the citizens of trading partners.<sup>50</sup>

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46 DHA 2019; DHA 2017.

47 Klein 2014.

48 AHRC 2017.

49 United Nations 2017.

50 Sherrell 2017.

An important international detail about Australia's immigration policy is that there is no restriction on the entry of New Zealand citizens. They are not considered as part of the immigration program if they decide to settle permanently in Australia.

Turning to intra-national considerations, there are considerable consequences for Australia's state governments which are largely responsible for the provision of infrastructure and services to an expanding population. The strong tendency for immigrants to gravitate to Australia's metropolitan centres, and especially Sydney and Melbourne, has been an important factor behind recent arguments for the intake to be reduced. Attracting or directing immigrants to regions or states within which population growth would be more welcome would help to remedy this situation. There is a well-established 'regional' subcategory within the occupational-skills immigration intake which favours applicants willing to reside in specified regions or states. In late 2018, Prime Minister Scott Morrison proposed inserting a formal role for state governments into the setting of immigration targets based on the willingness of each state to accept additional residents.<sup>51</sup>

#### Debates and issues

This chapter has already canvassed a number of policy debates around immigration and multiculturalism. Here two other controversies are discussed: the security and environmental sustainability implications of immigration policy settings.

#### *Defence and security*

National security had been a foremost consideration as a justification for the policy shift in 1945 towards large-scale immigration. In this context, Australia's relatively low population and empty spaces were regarded as liabilities for national defence: 'populate or perish' was adopted as something of a national slogan.<sup>52</sup>

As the decades passed, Australia's defence thinking, its relationship with Asian neighbours and the role of military technology had evolved to the point that the 1940s invocation of a direct link between immigration and questions of national security no longer seemed persuasive. By the late 1980s, there had developed 'something of a consensus, articulated in several reviews of Australian defence policy ... that the size of the Australian population has little military relevance'.<sup>53</sup>

Security considerations have re-emerged forcefully as part of recent debates about maritime asylum seekers. A new lexicon of security-laden terminology (border protection, border security, Operation Sovereign Borders) has characterised political discourse in recent years. The deployment of Australian military forces (notably the Navy) in the interdiction of asylum-seeker vessels, along with

51 Elton-Pym 2018.

52 For the seminal speech by the then minister for immigration, see Calwell 1945.

53 Parkin and Hardcastle 1990, 332.

the formation in 2015 of the Australian Border Force as a kind of paramilitary agency within the Department of Home Affairs, have likewise contributed to the security-centric tone of recent immigration management. To some observers, this has been an overreaction to the actual level of security threat posed by asylum-seeker vessels.<sup>54</sup>

#### *Environmental sustainability*

In October 2009, Labor Prime Minister Kevin Rudd effusively declared his support for ‘a big Australia’ arising from the ‘good news that our population is growing’.<sup>55</sup> Less than a year later, his successor as Labor prime minister, Julia Gillard, pointedly abandoned the ‘big Australia’ aspiration, instead declaring support for ‘a sustainable Australia’.<sup>56</sup> This short-cycle policy oscillation illustrates an unresolved policy debate about whether considerations of sustainability, environmental and otherwise, ought to impose a constraint on the scale of immigration.

An increasing population, and/or a rapid rate of population increase, have been argued by some to endanger the natural environment, to impact on resource depletion and energy consumption, and produce increased congestion in the urban environment. This perspective is backed by organisations such as Sustainable Population Australia and by individuals like the entrepreneurial philanthropist Dick Smith.<sup>57</sup>

Nonetheless, the population restraint perspective has secured less traction among mainstream environmental lobby groups. Some years ago, the Australian Conservation Foundation (ACF) endured some internal turmoil over taking a position on the scale of immigration.<sup>58</sup> The ACF’s *National Agenda 2018* makes no mention of immigration or population matters.<sup>59</sup>

It has been the claimed impact on the urban rather than the natural environment, in the context of the historically high levels of immigration, which has led in recent years to a stronger voice advocating a reduction in the immigration intake. The Morrison government responded in 2019 by lowering the immigration target.<sup>60</sup>

Until 2019, Australia had not developed, at least not since the ‘populate or perish’ era of the late 1940s, a formal long-term ‘population policy’ addressing the scale, pace and impact of population growth. A number of inquiries and reports had canvassed the issue.<sup>61</sup> In March 2019, the Morrison government moved

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54 Refugee Council of Australia 2014.

55 Rudd 2009.

56 Gordon 2010.

57 Smith 2011.

58 Warhurst 1993, 199–202.

59 ACF 2018.

60 Morrison Government 2019.

61 DSEWPC 2011; Treasury 2015.

towards a more formal population policy, with a notable emphasis on infrastructure provision, by releasing a report entitled *Planning for Australia's Future Population*.<sup>62</sup>

## Conclusions

A startling contrast is evident in how Australia's immigration and multicultural policies have recently evolved. On the one hand, a generally expansive and cosmopolitan orientation predominates in the immigration and humanitarian programs and in domestic multicultural policies. On the other hand, a tough-minded approach prevails in relation to asylum seekers arriving by sea. Observers discomfited by the asylum seeker policies might be further discomfited to contemplate that the two dimensions may be politically interdependent.

Prime Minister Malcolm Turnbull appeared certain of this interdependence. He lectured along these lines in April 2018 to an audience in Germany, a country then facing the consequences of a surge in asylum seeker arrivals. 'We manage our immigration program very carefully', Turnbull explained. 'Migration programs, a multicultural society, need to have a commitment, an understanding and the trust of the people, that the government, their government, is determining who comes to the country'. This means, according to Turnbull, that 'being in control of your borders is absolutely critical' and is 'a fundamental foundation of our success as a multicultural society, as a migration nation as people often describe us'.<sup>63</sup>

The contrasts and possible contradictions embedded within Australia's immigration and multicultural policies, evolving over time and shaping the country in fundamental ways, add to the fascination and intrigue of this crucial policy domain.

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<sup>62</sup> Australian Government 2019.

<sup>63</sup> Shanahan 2018.



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# 'Law and order' policy

Garner Clancey and Brenda Lin (with Brendan Delahunty)

## Key terms/names

corporate crime, criminal justice system, fear of crime, hyper-criminalisation, law and order policy, penal welfarism, policy transfer, 'punitive turn', 'tough on crime'

'Law and order' policy refers to the decisions and actions of governments relating to issues of crime and justice. Policy in this area has traditionally been referred to as criminal justice policy but is more commonly being referred to as 'law and order' policy – reflecting the increasing punitive nature of debates, laws and policies in the criminal justice domain. In the interests of simplicity, reference will be made to law and order policy throughout this chapter.

In Australia, states and territories are responsible for law and order policy. Consequently, the laws and procedures used in each state and territory to define criminal conduct and determine how crimes are investigated, arrests made, evidence gathered, charges brought, defences raised, trials conducted, sentences rendered and punishment carried out will be slightly or significantly different. Laws determining what types of conduct should be the subject of the criminal justice system are shaped by the social, political and moral concerns of the day.

The criminal justice system is (mainly) composed of three key government institutions: the police, courts and prisons.

- *Police*: the primary role of police is to enforce the criminal law, maintain public order and ensure community safety by investigating criminal activity and

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apprehending suspected offenders. Policing agencies are made up of numerous branches and sections, often with particular cultures, ways of operating and priorities. For example, most state policing agencies will have (among many others) separate investigation, traffic, water, air, counterterrorism, intelligence, education, community engagement, policy and management units.

- *Courts*: the court or judicial process is concerned with determining whether an individual is guilty or not guilty of the offence(s) they have been charged with. If there is a finding of guilt, the magistrate or judge decides on a sentence to impose upon the offender that adequately reflects the seriousness of the crime committed and the circumstances surrounding the offence. Criminal courts operate at different levels, with higher courts presiding over trials for more serious crimes that attract more severe penalties. Courts manage significant numbers of cases annually and are the gatekeepers that decide who is sentenced to prison.
- *Prisons*: imprisonment is a form of punishment that is reserved for those who have (generally) engaged in very serious offending and when no other form of punishment is appropriate. Prisons are places of confinement, where the offender is deprived of their freedom and autonomy. Prison services have to manage the prisoners and alleged offenders (in the case of remand) sent to them by police and the courts. Prisons operate according to security levels, with more serious or protected inmates being housed in more secure facilities.

This brief overview of the criminal justice system highlights the role of key (but not all) institutions and points to the different functions of each institution. It also shows that different parts of the criminal justice system can be heavily impacted by other agencies. For example, if police assume a pro-arrest policy, which brings more alleged offenders into the system, it is likely that the courts and prisons will need to deal with a greater number of cases and entries into custody.

Law and order policy has become increasingly punitive over time. This has been referred to as ‘hyper-criminalisation’<sup>1</sup> and has provided greater opportunities for police to interact with and sanction people, a greater likelihood that someone entering the criminal justice system will receive harsher penalties and a greater likelihood that people will remain in or return to the criminal justice system.

Political cycles and news media play critical roles in law and order policy making. Political parties often seek to appear ‘tough on crime’ through various announcements, most frequently prior to an election. Promising more police, and the introduction of sophisticated technologies to detect and help arrest offenders and of tougher criminal sanctions are often the stock-in-trade of major political parties at election times.

News media facilitates the communication and reinforcement of political law and order messages, while also exacerbating public fear by disseminating endless

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1 McNamara and Quilter 2016.

stories featuring horrific and extraordinary incidences of crime. Crime stories are designed to capture the public's interest and intensify public discussion on the issue in question, often by eliciting feelings of fear and insecurity or creating moral panic within society.<sup>2</sup>

Hogg and Brown<sup>3</sup> thematically summarised the 'common sense' assumptions about crime that underpin the beliefs held by a significant proportion of the Australian population. These 'common sense' assumptions still ring true in modern society. Their essence is epitomised by the following commonly held views:

- crime rates are at an all-time high – we currently live in a society characterised by unprecedented levels of crime
- more police officers with more police powers and tougher penalties on offenders are needed to combat the crime problem.

Popular misconceptions of the current 'crime epidemic' and need for harsh crime control and punishment have been largely disseminated in the public domain by news media, politicians and other influential figures.<sup>4</sup> A fearful public demands or requires governments to take law and order policy seriously – or so we are told.

What's at stake?

There is a lot at stake in the context of law and order policy making. Those who come into contact with the criminal justice system can lose their liberty (through imprisonment), their ability to move freely (through place restrictions and conditions attached to various sanctions) and their ability to work in particular industries (e.g. an individual may not be allowed to work for a fire service if they have been convicted of arson), not to mention the impact on victims of crime. Some of the additional human and financial costs are considered here.

#### *Human costs*

Law and order policy has significant ramifications for those entangled in the criminal justice system. Below are some examples of the ways in which law and order policy can impact lives:

- expanded police powers and 'zero tolerance policing' result in greater numbers of people being searched, fined and charged, often for minor offences
- the use of electronic monitoring and urinalysis in the supervision of community-based offenders means that people are being tracked and surveilled in increasingly intense ways

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2 Lee 2007.

3 Hogg and Brown 1998.

4 Hogg and Brown 1998.



- the rise of ‘supermax’ prisons means that some prisoners are being confined for long periods with little or no contact with other prisoners or the outside world
- sex offender registers mean that those convicted of particular sex offences will have their movements monitored for lengthy periods following their release from prison.

Taken together, the rise and intensification of these practices means that more people are entering the criminal justice system, staying in it for longer and returning more frequently, instigating a vicious cycle of offending.

#### *Financial costs*

The criminal justice system operates at great economic expense. The Australian Productivity Commission<sup>5</sup> calculated expenditure on the criminal justice system in 2016–17 as follows:

- \$10.9 billion on policing (not including federal police)
- \$1.4 billion on courts
- \$4.1 billion on corrective services (prisons and community corrections)
- \$769.5 million on youth justice services (detention-based supervision, community-based supervision, group conferencing).

To put some of the above figures in context, it costs approximately \$391 per day to keep an adult in prison, whereas community-based supervision only costs approximately \$18 per day.<sup>6</sup> The costs of detaining juveniles are exponentially higher than adults; the cost of detaining one young person averages \$1,482 per day and the cost of community-based supervision averages \$140 per day.<sup>7</sup>

In Western Australia (WA), more than 1,000 people each year are imprisoned for unpaid fines, with an average imprisonment period of four days.<sup>8</sup> In addition to the cost of \$345–\$770 per day to detain them in prison, such short imprisonment periods have negligible, if not negative, impacts on rehabilitation or deterring future fine defaults.<sup>9</sup> Expenditure that does not serve an outcome is bad economics – and imprisonment for unpaid fines appears to fall under this category.

Given these significant costs, it is important that law and order policy uses public funds in the most efficient and effective manner. Every dollar spent on inefficient law and order policy represents one less dollar spent on education, public infrastructure, welfare and so on.

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5 Productivity Commission 2018.

6 Morgan 2018.

7 Productivity Commission 2018.

8 Aboriginal Legal Service of Western Australia 2016.

9 Aboriginal Legal Service of Western Australia 2016.



**Table 1 Incidents of crime in Australia in 2000 and 2017**

|                               | Incidents in 2000 | Incidents in 2017 | % change |
|-------------------------------|-------------------|-------------------|----------|
| Homicide and related offences | 989               | 414               | ↓ 58%    |
| Sexual assault                | 15,630            | 24,957            | ↑ 60%    |
| Kidnapping and abduction      | 688               | 482               | ↓ 30%    |
| Robbery                       | 23,314            | 9,599             | ↓ 59%    |
| Unlawful entry with intent    | 436,865           | 176,153           | ↓ 60%    |
| Motor vehicle theft           | 139,094           | 51,869            | ↓ 63%    |
| Other theft                   | 674,813           | 510,083           | ↓ 24%    |

Source: ABS 2018a; ABS 2001.

The context and characteristics of 'law and order' policy

There are a number of characteristics of law and order policy that require attention. First, it is important to reflect on some recent significant trends in crime. The first is (generally) falling crime rates. The second, perhaps counterintuitively, is the rise in criminalisation and punishment, especially through imprisonment.

#### *Crime trends*

It is important to give some consideration to crime trends. It might be expected that crime trends drive law and order policy making, but, as will be shown, this is not necessarily the case.

Many major crime categories in Australia, as in many other Western societies, have been experiencing consistent declines since the turn of the 21st century. Incidents of some crime types in some Australian jurisdictions are at historic lows, meaning that there has never been a safer period of time to reside in these parts of Australia. Table 1 compares the number of reported incidents of particular crimes (by category) that occurred in Australia in 2000 and 2017.

Every major category of crime included in Table 1, except sexual assault, has shown a substantial decline between 2000 and 2017. Given the significant population growth in Australia during this period, these declines are even greater when considered as rates. These trends are generally not well known and are often lost in heated debates about the incessant need for more law and order policy.

The increase in reported incidents of sexual assault does not necessarily signify a proportionate increase in the prevalence of sexual assault or a greater likelihood of becoming a victim of such crimes. The reporting rate of sexual assault has historically been extremely low. Greater awareness and education surrounding sexual assault among the general public in recent years raises the probability that its statistical increases may (at least partially) be attributed to an increased willingness to report incidents and better police recording practices.<sup>10</sup>

Furthermore, official crime statistics do not represent an objective truth; one must be mindful of taking them as an accurate reflection of reality. Numerous factors will affect crime statistics, including the quality of data collated, counting rules, police practices both in reporting and in the activities they target, and whether the statistics are intended to be used to frame political or other agendas.

#### *An increasingly punitive society*

Despite the significant declines in many crime types, there has been rapid growth in criminalisation and punishment. This has been referred to as the ‘punitive turn’.<sup>11</sup> It has occurred through the proliferation of new laws, which has been described as ‘hyper-criminalisation’, and the increasing use of punishment.

Throughout the last decade, a significant number of hastily crafted laws have passed through various state and territory parliaments, resulting in the expansion of law enforcement powers, the creation of new offences, the amendment of the rules of criminal procedure and increased maximum penalties for offences.<sup>12</sup> These laws are often responses to the ‘problem of the day’ and are designed to alleviate public concern, rather than resolve the underlying causes of crime.

Below are some examples of punitive law and order policies that have been introduced in recent years:

- revival and expansion of consorting offences<sup>13</sup> in New South Wales (NSW)
- creation of ‘one-punch’ homicide in NSW, Queensland and Victoria
- creation of an organising an ‘out-of-control’ party offence in WA and Queensland.

It has been argued that the effect of these (and other) laws and powers is to further criminalise marginalised groups in society, such as the poor and ethnic minorities.<sup>14</sup> Furthermore, there has been increasing co-ordination of criminal laws between jurisdictions – one announces a new policy to get tough on crime,

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10 Weatherburn 2004.

11 Garland 2001.

12 Loughnan 2009.

13 Consorting laws prohibit the act of habitual association with convicted offenders. NSW consorting laws have been in operation since 2012; they were introduced in response to outlaw motorcycle clubs and other organised criminal networks.

14 McNamara and Quilter 2016.

and others will follow or attempt to introduce policies that are even tougher on crime. This is a form of 'policy transfer', which will be discussed later.

In concert with the growth in these and other criminal laws and sanctions has been the growing use of punishment, especially imprisonment. The daily average imprisonment rate in Australia in 2018 was 222 prisoners per 100,000 population.<sup>15</sup> In 1976, before law and order policy began to take hold in Australia, there were just 77.8 prisoners per 100,000 population.<sup>16</sup> On average, there were 42,878 people in prisons in Australia during the April–June quarter of 2018 – up from 30,835 in 2013 and 26,640 in 2008.<sup>17</sup>

This growth has been driven, at least in part, by the rising remand population (i.e. those held in custody while awaiting resolution of their court matters) and the imposition of longer prison sentences by courts. To provide some context, in the June 2018 quarter, 13,182 people were held in prison awaiting finalisation of their matters in court. This is more than double the 6,482 prisoners on remand a decade earlier.<sup>18</sup> Of particular concern, around half of all people on remand are released without having to serve further time in prison because they are either found not guilty, given a community order or deemed to have served their time while on remand.<sup>19</sup>

The increased remand population is at least partially explained by changes to bail laws. Historically, there was a uniform presumption in favour of bail for those who had been charged with an offence but not yet convicted – thus, unless there were good reasons to refuse bail, it would be granted. Over time, bail laws have undergone numerous waves of reform, gradually removing the presumption in favour of bail for more and more offence categories. It varies between jurisdictions, but at present there is a presumption against bail for a number of offence categories, including:

- terrorism
- violence
- sex
- domestic violence
- drug
- bushfire
- blackmail
- organised crime
- driving.

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15 ABS 2018b.

16 Mukherjee 1981, 98.

17 ABS 2018b.

18 ABS 2018b.

19 New South Wales Law Reform Commission 2012.

Moreover, legislative amendments to parole and sentencing laws – for example, mandatory non-parole periods and mandatory sentencing – have curtailed the discretion of parole boards and courts, contributing to longer periods of imprisonment. Most Australian jurisdictions have passed ‘no body, no parole’ laws that do not permit parole to be granted to offenders convicted of murder or manslaughter if they have not revealed the location of the victim’s body. The controversial ‘truth in sentencing’ laws introduced in NSW in 1989 require sentenced offenders to serve a minimum of three-quarters of their sentence before they are eligible for parole. Since the enactment of this legislation, prison numbers and average sentence lengths have risen dramatically.

It is also important to note that the imprisonment rate for the Indigenous population is 15 times higher than for the non-Indigenous population. In the June 2018 quarter, 28 per cent or 11,963 of Australia’s inmates were Aboriginal and Torres Strait Islander people.<sup>20</sup> By comparison, Aboriginal and Torres Strait Islander people constitute just 3.3 per cent of Australia’s overall population.<sup>21</sup> This has been further exacerbated by many of the previously mentioned crime trends, and it continues to be a stain on Australian criminal justice systems and policies.

Unsurprisingly, the combination of all the above conditions has led to significant prison overcrowding; in 2016–17, on average, secure prisons in Australia held 21 per cent more prisoners than their maximum design capacity.<sup>22</sup> Prison overcrowding compromises inmates’ ability to access adequate programs, services and facilities as well as their right to privacy – all of which may impede their rehabilitation progress and increase their risk of reoffending. Furthermore, overcrowding increases the likelihood that disagreements will escalate into violent situations, presenting a danger for both staff and inmates.

#### *Moving away from penal welfarism*

Law and order policy has not always been excessively punitive. The majority of the 20th century was characterised by welfare-focused public policy. From a crime reduction perspective, it was believed that the provision of social welfare services would not only reduce poverty but also reduce the crimes that stemmed from social and economic disadvantage. The objectives of welfare-style policies were twofold: first, welfare support would address the underlying structural causes of crime (such as poverty, social inequality, community disharmony), and second, the state had a duty to rehabilitate offenders through the provision of welfare support, care and assistance. The term ‘penal welfarism’ has been used to describe the integration of

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20 ABS 2018b.

21 ABS 2018c.

22 Productivity Commission 2018.

welfare and rehabilitation principles in punishment practices.<sup>23</sup> The ethos of penal welfarism is evident in policies such as:

- early release from prison
- parole supervision
- juvenile courts and their child welfare philosophy
- individualisation of treatment based upon expert assessment
- research on treatment effectiveness
- post-release support for prisoners
- education in prison.

This penal welfare approach to crime and punishment faced a predicament during the 'law and order crisis' of the late 20th century. The 1970s and 1980s saw a significant surge in violent and property crime rates. The efficacy of rehabilitation focused penal welfare policies came under question. Moreover, governments had to devise solutions that would allow them to maintain social control and state legitimacy in an environment that was perceived to be experiencing a crime epidemic. Under such conditions, the welfare state was gradually eroded by neoliberal rationalities (the reassertion of market principles and minimal state intervention), which resulted in a hybrid political economy that subscribed predominantly to neoliberal principles but retained elements of penal welfarism.

Neoliberalism shifted how people thought about the nexus between crime and the state. Less emphasis was placed on the perception of crime as a by-product of the social and economic deficits of the individual; rather, crime is now considered to be the result of individual autonomy and free choice. Individuals are held to account for their actions and penal sanctions are seen as the appropriate response to crime. Neoliberalism and the rise of the penal state place the onus of responsibility on the individual, and access to welfare assistance is conditional on one's compliance with societal rules.

The modern hybrid penal welfare policies have shifted focus towards:

- efficient management of the criminal justice system and its agencies through the use of key performance indicators, the competitive tendering process and privatisation of services
- effective risk management of 'dangerous groups' of people – which has been termed 'new penology' or 'actuarial justice' – instead of focusing on individual needs
- harm minimisation and crime control, instead of preventing the occurrence of all criminal activity
- fear reduction and improving the public perception of crime
- retribution in punishment, instead of offender rehabilitation.

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23 Garland 2001.

Many of the examples found in this chapter also reflect the shift towards neoliberal tendencies and developments.

#### Actors and politics of 'law and order' policy

Law and order policy making is a complex process that operates in a highly politicised public arena and involves a multitude of interrelated actors – each with differing degrees of interest, power and influence over the policy-making process and its ultimate outcomes.

##### *Political actors*

'[A] harsh criminal justice system – in particular, more prisons and people behind bars – has apparently become a hallmark for good government.'<sup>24</sup> Ministers for criminal justice-related portfolios and their advisers play a critical role in determining law and order policy. Politicians have strategically utilised the public's fear and misconception of crime to elicit popular political support and to legitimise punitive policies. During state and territory election campaigns in Australia, politicians compete to outdo one another with policies that are 'tough on crime'. The frequent use of punitive measures seems to be more focused on allaying public anxiety about crime and certain groups of offenders, rather than on tackling the underlying causes of offending behaviour.

'Tough on crime' policies have great political and community appeal; they supposedly provide an easy and quick solution to the perceived crime problem. Building more prisons to incapacitate 'dangerous' offenders is seen as an immediate and tangible solution; in comparison, rehabilitation programs are perceived as expensive, and their outcomes will not be realised until many years later.

##### *News media*

The news media consistently plays a prominent role in defining and heightening public anxiety about 'lax' laws and 'soft' government responses to the perceived crime problem. Television and print media are important sources of crime information for more than 80 per cent of Australians.<sup>25</sup> But unfortunately, their coverage of crime is too often an inaccurate reflection of reality. Rare incidents of violent and serious crime are extensively publicised, with great dramatic flair and sensationalistic reporting.

There are multiple examples of the media abusing official crime statistics by habitually distorting, misrepresenting and exaggerating the extent of crime. For instance, in 2008, a misleading newspaper article titled 'Kid crime rampage' was

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<sup>24</sup> Cunneen 2016.

<sup>25</sup> Roberts and Indermaur 2009.

published. The title leads readers to believe that kids are engaging in vast amounts of illegal activity. However, crime statistics reveal that the number of young people coming to the attention of police has been declining over time, and less than 1 per cent of the population aged 8–9 in NSW had any contact with police in the 12 months prior to the publication of the newspaper article.<sup>26</sup>

Public perception of crime has far reaching consequences for the criminal justice system and the wider community. Public confidence in the criminal justice system is undermined by mistaken views about crime, which, in turn, negatively impacts the efficient operation of the criminal justice system. Furthermore, public perception of the legitimacy of the criminal justice system is an influential factor in policy decisions and judicial sentencing.

#### *Criminal justice professionals*

This group includes an extensive range of professionals who work in the criminal justice system, such as judges, police, lawyers, prison staff and social workers. Criminal justice professionals implement and enforce law and order policy in carrying out their daily responsibilities. A significant amount of their work involves discretionary decision making; formal organisational policies, informal norms and personal values are likely to influence the way in which discretion is exercised. Ultimately, professional discretion determines the way in which criminal justice policies are implemented and the impacts they have on others.

#### *Penal reform groups*

Penal reform groups are cause-specific organisations that often advocate for human rights and better treatment of offenders. Many of these groups seek to correct the injustices faced by offenders by bringing them to the attention of the public – creating media campaigns, lobbying politicians and making formal submissions on policy issues. Some of the issues that are of concern for penal reform groups include:

- poor living conditions and degrading treatment experienced in prisons
- lack of post-release support for offenders
- high incarceration rates of Aboriginal and Torres Strait Islander people.

#### *Victim interest groups*

Some victim interest groups are primarily focused on providing practical and emotional support to victims of crime, while others campaign to enact policy change. Victims of crime have a powerful voice when it comes to influencing law and order policy. A victim's anecdotal experiences can have considerable public

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26 Weatherburn 2011.

appeal – stories of injustice have the capability to arouse sympathy and evoke intense feelings of anger and moral indignation among the general public. Furthermore, victim groups often have insider access to politicians and the policy consultation process, and may be invited to make policy submissions.

#### *Single-issue campaign groups*

Single-issue campaign groups are similar to penal reform groups and victim interest groups, except that campaign groups generally arise out of widely publicised perceived injustices and seek to influence law and order policy pertaining to a single issue of concern.

#### *Case study: Thomas Kelly*

In July 2012, Thomas Kelly was killed in a ‘one-punch’ attack in NSW. The incident drew extensive media coverage and sparked intense public outcry on the danger of alcohol-fuelled violence. On 8 November 2013, the perpetrator, Kieran Loveridge, was sentenced to a total of seven years and two months imprisonment. This punishment was deemed to be grossly inadequate by many, and it further fuelled public outrage about the problem of alcohol-fuelled violence and the supposed inability of the judiciary to respond in a way that reflected community sentiment.<sup>27</sup>

Shortly after the sentence, Kelly’s family and their supporters called for tougher sentences for violent offenders and lobbied the government to introduce mandatory sentencing laws. On 19 November 2013, a public rally was held in Sydney’s Martin Place. By 30 January 2014, a new homicide offence had been created – the offence of ‘assault causing death’. The aggravated version of the offence, ‘assault causing death when intoxicated’, carries a mandatory sentence of eight years imprisonment. All of this was achieved in great haste; the Bill was passed in parliament on the same day it was introduced and with minimal expert consultation.<sup>28</sup>

#### *General public*

Members of the general public can influence law and order policy by expressing their views through a variety of mediums, including:

- voting at state elections
- participating in opinion polls
- signing petitions
- publishing comments on social media
- providing feedback or comments on talkback radio
- contacting the local member of parliament.

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27 Quilter 2014.

28 Quilter 2014.



Given that politicians are in the business of staying in or attaining office, it is in their interests to align their policies with widely held public sentiments. Moreover, politicians do not merely react to public sentiment; public sentiment is heavily influenced by political agendas and media coverage on crime.

#### *Criminal justice experts*

Criminal justice experts are often involved in the policy-making process in some capacity. They may include: academics, commercial research companies and think tanks. Criminal justice experts will often advocate for policy changes in response to system deficiencies that have come to their attention as a result of their professional work. Experts may be consulted in the process of drafting policy documents or be asked to advise ministers on issues within their field of expertise. They may also make submissions to parliamentary inquiries. At times, governments will utilise expert opinion to legitimise their policy decisions.

#### *Private-sector firms*

Governments contract out some of their responsibilities to the private sector. For example, although the punishment of offenders is a state responsibility, the government has contracted private-sector firms to operate prisons in Australia. Private-sector firms who provide criminal justice services have a vested interest in any policy developments that may impact how they operate in this area.

#### How 'law and order' policy is made

Various approaches, theories and models have been developed to explain and analyse the law and order policy-making process. The different actors and the extent of their respective contributions and influence on law and order policy are contingent on the policy-making model adopted. A small number of models, and 'policy transfer' in law and order, will be considered here.

#### *Models of law and order policy making*

Table 2 provides an overview of the core models of law and order policy making, drawn from Hobbs and Hamerton.<sup>29</sup> The law and order policy-making process does not strictly follow any of these models; rather, it combines different elements from each model. For less contentious law and order issues, policy makers generally employ more elements of the rational decision model, which focuses on evidence-based policy making. Issues that elicit greater political contestation or are hasty

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29 Hobbs and Hamerton 2014.

responses to extraordinary criminal incidents tend to result in the adoption of the elite model of policy making.

### *Policy transfer*

The formulation of purely original and innovative public policy rarely occurs in the criminal justice space; rather, policy makers often draw inspiration from policies in other jurisdictions, both within and outside their country.<sup>30</sup> This practice is known as policy transfer. Policy transfer occurs in multiple forms. Policies from another jurisdiction may be:

- directly copied and transferred to the target jurisdiction
- emulated by copying some elements and adapting them to suit local conditions
- used to inspire the final policy outcome
- combined to achieve the policy outcome.

Below are some examples of Australian law and order policies that have been imported and adopted from other jurisdictions:

- *Prison privatisation*: traditionally, all Australian prisons were operated by state and territory governments. But over time the private sector has been given responsibility for operating prisons. The privatisation of criminal justice services first originated from neoliberal ideals in the USA. The growing acceptance of neoliberal ideas saw a remarkable shift in the way the population thought about state ownership and control, suggesting that the operation of state institutions should be subject to market forces of competition and efficiency. Thus the concept of private prisons was born, resulting in the commodification of punishment.
- *Risk instruments*: a range of risk assessment tools that first emerged in the USA are used in the Australian justice system. These tools assess the level of risk a person poses to society. This then largely informs the way in which they are dealt with in the justice system – for example, whether bail or parole is granted.
- *Political law and order slogans*: law and order style rhetoric from the USA and UK has been often transferred into the Australian context. Examples include:
  - UK Prime Minister Tony Blair's 'tough on crime, tough on the causes of crime' political slogan and rhetoric
  - US President Ronald Reagan's 'war on drugs' political campaign.

In addition to importing policies from foreign jurisdictions, Australian policies have also been exported. Restorative justice<sup>31</sup> is an example of a policy that first emerged in Australia and New Zealand that has since gained traction in the USA and UK.

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<sup>30</sup> Ogg 2015.

<sup>31</sup> Restorative justice is an approach that aims to heal (or minimise) the harm caused by the offender upon the victim. Examples of restorative justice include family group conferencing, youth justice conferencing and circle sentencing.

**Table 2 Overview of models for the law and order policy-making process**

| Model   | Example  |
|---|--|
| <i>Elite model</i> (policy as elite preference): this model suggests that policy making is a role reserved predominantly for political elites (e.g. ministers and their advisers). This small group of elite individuals have the power and ability to create, implement and enforce public policy that regulates the behaviour of the rest of society.   | A minister observes graffiti on the journey to parliament and decides that measures must be taken to get tough on such offences. Relevant department agency staff are summoned and told to develop measures to tackle the scourge of graffiti. A graffiti hotline to encourage reporting and tougher penalties are swiftly introduced and implemented.   |
| <i>Pluralist model</i> (policy as diverse perspectives): this process is based upon the idea that society is comprised of a diverse range of actors and stakeholders, all of whom have an interest in contributing to and influencing the public policy-making process and its ultimate outcomes.   | Numerous reviews, inquiries and research reports highlight the importance of tackling alcohol and other drug use to prevent offending. A working party is established with representatives from key criminal justice agencies and victim and penal reform groups to develop policy responses. A specialist drug court is proposed as one possible solution, which the government backs through the provision of funding for a trial. |
| <i>Incrementalism model</i> (policy as variations of the past): many aspects of criminal justice policy making reflect the traditions and histories of the system, with minor reforms being introduced over time. Policy making in this context is a process whereby existing policies are incrementally modified and revised. Policies are continually improved upon in response to the problems that have arisen from their implementation. | The juvenile justice system has largely operated the same way for many years – children appearing in closed children's courts are sentenced to serve time in juvenile justice detention facilities and are then released into the community with case management support. A new approach to assessing and addressing risk factors for offending is introduced into the system to augment existing practices.                         |
| <i>Institutional model</i> (policy as institutional output): this model emphasises the organisational norms, culture, structures and procedures (both formal and informal) that develop within institutions and the ways in which they impact public policy.  | Corruption within the police force has prompted a widespread review. In developing a blueprint for a new approach to policing, careful consideration is given to existing institutional cultures and how reform of the organisation will be achieved in this context.  |

| Model  | Example  |
|--|--|
| <i>Rational decision model</i> (policy as maximum social gain): this model of policy making utilises a problem-solving approach that is characterised by rationality, impartiality, fairness and analysis. | Detailed analysis of the mental health of prisoners reveals mental illness is steadily rising within this population. It is recognised that preventing early onset of mental health problems among this cohort will produce significant cost savings over time. A policy response that includes a spectrum of interventions in place in community, court and custodial settings is endorsed. |

Source: adapted from Hobbs and Hamerton 2014.

#### Intergovernmental interactions

The process of law and order policy formulation and implementation in Australia is further complicated by the country's constitutional and jurisdictional structure. State and territory governments have predominant control over law and order policy, but the Commonwealth government has gradually encroached upon these traditional state-based responsibilities. Additionally, international agreements and guidelines for best practice may be considered in the policy formulation and implementation process.

#### *Commonwealth–state*

The Constitution gives state and territory governments the power to enact, implement and enforce law and order policy within their borders. The Commonwealth is responsible for law and order policy that extends beyond state and territory borders or crosses those borders – for example, drug importation, customs fraud and illegal immigration. The significant overlap between Commonwealth and state responsibilities can be a source of tension.

State and territory governments are heavily reliant on Commonwealth funding – more than half of their funding is provided by the Commonwealth government.<sup>32</sup> Often Commonwealth funding will be conditional, or tied to a certain project, policy area or outcome. This has the effect of enabling the Commonwealth to influence the way in which resources are allocated in the criminal justice system.

32 Parliamentary Education Office 2018.

*International-national*

United Nations (UN) resolutions, declarations and treaties promote universal human rights and can be employed as tools to protect against punitive law and order policy.<sup>33</sup> Australia, as a UN member state, has ratified a number of UN treaties and is accountable to the international community in its compliance with its treaty obligations. Table 3 summarises one of the major UN treaties that protects against excessively punitive policies.

In addition to the ICCPR, below are examples of other UN treaties and resolutions that have the potential to protect against punitive law and order policy:

- Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) (2015) <https://bit.ly/2pc54bg>
- Convention on the Rights of the Child (1990) <https://bit.ly/2pRZE52>
- Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (1985) <https://bit.ly/2Nem4Wn>
- Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (1985) <https://bit.ly/2WjtR9y>

While Australia has ratified several UN treaties, for the most part the government does not recognise these treaties to be legally binding and often treaty obligations are not enforceable. However, even without legal status, these treaties have an effect – they can influence and guide law and order policy and provide an antidote to punitive policies.

Non-agenda issues: corporate crime

Much of the preceding commentary demonstrates a preoccupation with what might be categorised as 'street crime' – crimes that take place in public spaces, such as assault, theft and drug crimes. The nature of street crime can be contrasted with 'corporate crime' and 'white-collar crime' – abusing one's profession to gain specific access to a crime target.<sup>34</sup> Often, such crimes are motivated by financial gain and are non-violent in nature. Corporate crime covers a diverse range of activity – ranging from short-changing customers, employee theft, enticing bribes and violating client privacy to falsifying insurance claims, dumping toxic waste, tax evasion, money laundering and insider trading.

It can be argued that corporate crimes are the most harmful category of crimes – such crimes likely account for a greater number of deaths than those committed by 'common' murderers,<sup>35</sup> and corporate decisions made in the interests of profit can have a series of harmful effects that are borne by the wider public. For example,

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33 Hogg 2008.

34 Felson 2002.

35 Geis 1996.

**Table 3 Compatibility of Australian law and order policy with the International Covenant on Civil and Political Rights**

| <b>International Covenant on Civil and Political Rights (ICCPR)</b><br><b>(adopted by the UN in 1966, ratified by Australia in 1980)</b>   |   |
|--|---|
| <b>Articles that protect against punitive policies</b>   | <b>Incompatible Australian policies</b>   |
| <p><b>Physical integrity</b></p> <p>Article 7: prohibits torture and cruel, inhuman or degrading punishment</p> <p><b>Liberty and security</b></p> <p>Article 9: prohibits arbitrary arrest and detention; deprivation of liberty must be according to law; restricts the use of pre-trial detention (remand)</p> <p>Article 10: individuals deprived of liberty must be treated with dignity and humanity; prisons must be focused on rehabilitation, as opposed to retribution; prisoners on remand must be separated from convicted prisoners; children must be separated from adults in prison</p> <p><b>Procedural fairness</b></p> <p>Article 14: trials should be completed in a timely manner; the presumption of innocence</p> <p><b>Individual liberty</b></p> <p>Article 12: right to freedom of movement – can only be restricted to protect national security, public order, health or the rights/freedoms of others</p> <p>Article 17: right to privacy</p> <p>Articles 21 and 22: right to freedom of association</p> | <p><b>Counterterrorism laws</b></p> <p>Indefinite post-sentence detention for people convicted of terrorism</p> <p>Control orders to restrict an individual's movements and communications – no requirement for individual to be charged or to have previously been involved in an act of terrorism</p> <p><b>Punishment and prison conditions</b></p> <p>Mandatory sentencing</p> <p>Presumption against bail</p> <p>Lack of culturally appropriate diversionary options for Indigenous offenders</p> <p>Prison overcrowding raises concerns about privacy, dignity and hygiene</p> <p>Solitary confinement for extensive periods of time</p> <p>Excessive routine strip searches</p> <p>Preventative detention of serious sex and violent offenders</p> <p><b>Children</b></p> <p>Curfews for children (e.g. Northbridge, WA, does not allow children under 12 and without supervision to go outside after dark, Miriam Vale, Qld, does not allow children under 15 and without supervision to go outside after 8pm).</p> |

James Hardie Industries manufactured asbestos building products throughout Australia from 1937 to 1986, despite becoming aware of the health complications caused by asbestos in the 1960s.<sup>36</sup> It has been projected that 18,000 Australians will have died from asbestos-induced cancer (mesothelioma) by 2020.<sup>37</sup>

A more recent example occurred on the Gold Coast in 2016, when Dreamworld's 'Thunder River Rapids' ride malfunctioned and caused the deaths of four people. In the pursuit of profit, Dreamworld reduced its maintenance and repair expenditure. The theme park ride was overdue for maintenance by seven months and had malfunctioned on prior occasions (including on the day of the fatalities).<sup>38</sup>

In the above cases, it can be argued that both corporations engaged in negligent behaviour (at the very least) and disregarded the sanctity of human life, yet no criminal charges were brought against their executives. Nor did these events instigate a 'tough on corporate crime' political campaign or punitive reform of corporate regulations. In fact, Australian regulatory bodies rarely employ the criminal law when policing corporate entities and their behaviour.<sup>39</sup> Corporate breaches are often resolved with monetary settlements, and there is relatively little media attention paid to them. News media are largely uninterested in reporting corporate crime – often the facts are complex and hard to convey to a lay audience.<sup>40</sup> Corporate crime does not evoke comparable degrees of moral outrage and intense emotions among the public to 'traditional' forms of crime. Consequently, law and order policy often targets the urban poor, working-class youth and non-white minorities, while placing the wealthy and powerful above the purview of the law.<sup>41</sup>

The legal impunity surrounding corporate crime suggests that a death caused by corporate greed is more forgivable and less morally offensive than a death caused by a murderer driven by self-interest. But is there really any material difference?

## Conclusions

In recent decades, law and order policy in Australia has become excessively punitive despite the consistent decline in crime. Numerous policies have been introduced in the name of community safety and social order, but, when applied in practice, they unnecessarily criminalise a broad range of behaviours and impose disproportionately harsh penalties upon those who engage in (some forms of) criminal behaviour.

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36 Prince, Davidson and Dudley 2004.

37 Prince, Davidson and Dudley 2004.

38 Sibson 2018.

39 Hogg 2013.

40 Levi 2006.

41 Geis 1996.

The formulation of law and order policy is fraught with complexities, contestations and political power plays. It involves an array of actors with diverse and often conflicting perspectives, all seeking to influence the direction of law and order policy. Amidst these debates, politicians have been able to exploit the public's (somewhat irrational) fear of crime, which has been predominantly driven by sensationalistic media coverage, to elicit popular support for 'tough on crime' policies.

Punitive law and order policy is costly – in both human and financial terms. Consequently, it is important to ask whether the benefits gained from 'getting tough' on the supposed crime problem can justify the damage it creates. Furthermore, it is important to recognise the disproportionate adverse effects of punitive policies on the most vulnerable groups in society. Law and order policy, as it currently stands, has the effect of excessively criminalising and punishing poverty and desperation. More needs to be done to ensure that there is equality before the law and punishments imposed are proportionate to offences committed.

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# Regional policy

Fiona Haslam McKenzie

## Key terms/names

‘countrymindedness’, globalisation, Keynesian policy, local government regional zones and local government areas, neoliberalism, rationalisation and centralisation policies, regional, Regional Development Australia (RDA) committees, regional economic development, remote, rural, trade liberalisation, Western Australian Regional Development Commissions

Australia’s regions are the backbone of the nation’s exports sector. The major industries of regional Australia – agriculture, forestry, fishing and resources extraction – accounted for nearly 60 per cent of Australia’s exports in 2017.<sup>1</sup> However, despite its consistent economic contribution to the country’s prosperity, regional Australia – like regional areas in other First World economies – has experienced significant social shifts over the last 50 years.

The influence of globalisation, trade liberalisation and the application of neo-liberal policies since the 1980s have accelerated urbanisation, and ageing population trends are apparent in most, although not all, non-metropolitan regions. Rapid technological change and capital investment in industry have amplified these trends, which have both driven and been driven by rationalisation and centralisation of services and infrastructure. This has consequently compromised liveability in

Haslam McKenzie, Fiona (2019). Regional policy. In Peter J. Chen, Nicholas Barry, John R. Butcher, David Clune, Ian Cook, Adele Garnier, Yvonne Haigh, Sara C. Motta and Marija Taflaga, eds. *Australian politics and policy: senior edition*. Sydney: Sydney University Press. DOI: 10.30722/sup.9781743326671

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1 Reserve Bank of Australia 2018.

regional areas and pushed people into cities. These changes have had profound impacts on rural, regional and remotely located businesses, communities and people.

Regional policy has the potential to shape economic, social and environmental outcomes by setting priorities and developing initiatives to achieve outcomes. Depending on government goals, policy frameworks can facilitate or impede community and regional development. The implementation of regional policy over the last 70 years has been haphazard, with many shifts in policy direction. Consequently, the outcomes have been uneven, often causing considerable angst and even voter backlash.

This chapter commences by outlining the spatial boundaries of rural and regional Australia and how data about non-metropolitan Australia is recorded. Regional policy is then explained, followed by its practical application in Australia, focusing particularly on the decades since the Second World War. The discussion of policy highlights the often blurred responsibilities of the different spheres of government. The following section examines the reorientation of Australian political and economic policies in the later decades of the 20th century, shifting from Keynesian influenced initiatives, the hallmark of which is government intervention and regulation to policies that reoriented Australian industries to global markets and reduced the role of government as the source of infrastructure investment and provider of services in rural, regional and remote communities. Australian regional development policy in the opening decades of the 21st century is then examined, framed by increasing regional voter dissatisfaction but also by considerable national wealth from regionally based industries, which saved Australia from being drawn into the Global Financial Crisis (GFC). Concessions given to the National Party and to regionally based independent politicians by the major parties have avoided the real threat of hung parliaments and redirected spending to regional areas. The chapter concludes with an assessment of current regional policy arrangements.

#### Defining rural and regional Australia

Unlike other jurisdictions, in Australian political and public policy discourse ‘regions’ and ‘regional’ are often understood as synonyms of ‘rural areas’.<sup>2</sup> In most other countries, cities are considered discrete regions and regional development policies usually address their needs in the same way as farming, mining and other non-metropolitan regions. In Australia, regional policy focuses on non-metropolitan places.

Regional Australia is not homogenous; it includes a large, spatially diverse area with considerable economic, climatic, social, environmental, population and settlement diversity. However, regions are generally assumed to have something

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2 Brown and Bellamy 2007; Päul and Haslam McKenzie 2015, 10.

in common, such as topographical features (for example, the Snowy Mountains) or industry (like the Wheatbelt, known for its agricultural products, or the wine region of South Australia). Territorial boundaries are usually politically significant and may influence the distribution of power and resources. For example, state boundaries often delineate particular funding arrangements or policies.

From a policy perspective, there are a variety of regional administrative designations. There are multiple agencies, such as the Commonwealth government Regional Development Australia (RDA) committees, Western Australian Regional Development Commissions, local government regional zones and local government areas, each of which have defined roles with particular boundaries and funding arrangements.

The Australian Bureau of Statistics (ABS) Census of Population and Housing is held every five years. Because participation is compulsory, it provides a consistent range of information about the economy and populations for all Australia. ABS boundaries occasionally change with population fluctuations but are consistent enough to provide useful baseline information about places and people. The data are divided into geographic areas, defined by the Australian Standard Geographical Classification (ASGC). The ASGC determines statistical areas based on population densities, geographical structures, such as remoteness, and urban/rural definitions.<sup>3</sup> Most states have multiple regions.<sup>4</sup>

The ABS divides Australia into five classes of remoteness (Remoteness Areas [RAs]) based on the Accessibility and Remoteness Index of Australia (ARIA). This employs road distance measurements to the nearest service centres. The RAs are:

- major cities
- inner regional
- outer regional
- remote
- very remote.

Regions and regional Australia are not static; there is constant change, driven by market forces, climatic conditions, social trends and even political arrangements. These influence where people live and what livelihoods they pursue. Policy decisions are also fluid but influential; how and where public and private investment is directed impacts job prospects, liveability and accessibility and therefore the links between people and places.

A Commonwealth Government Standing Committee<sup>5</sup> noted that, from a national perspective, regions in Australia have been defined in a number of ways, including as:

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3 ABS 2018.

4 With the exception of Tasmania. The Northern Territory is also counted as one region.

5 House of Representatives Standing Committee on Infrastructure, Transport, Regional Development and Local Government 2009.

- 85 biogeographic regions, identified co-operatively by federal and state government scientists
- 69 statistical divisions, based on agreed definitions of a 'region' and identified co-operatively by federal and state statisticians and used by the ABS
- 64 regions identified by the formation of voluntary Regional Organisations of Councils (ROCs), which are groupings of approximately 560 local governments
- 57 regions of the federal–state natural resource management regional bodies administering the Natural Heritage Trust and National Action Plan on Water Quality and Salinity
- 54 regions of the nation's RDA committees (formally 'Area Consultative Committees').

Regions can also be functional economic areas with specialisations and competitive advantage, meaning that they have physical or resource attributes that give them advantages over competitors. Another type of functional region is defined by natural resources, such as a water catchment or natural endowments. However, even though rural and regional Australia can be defined in many ways, in broad policy terms, regional Australia is assumed to be all the towns, cities and communities outside Australia's six largest capital cities.<sup>6</sup>

Regional policy: what is it?

Collits explains that regional policy 'typically responds to regional disparities and often focuses on economic development, jobs and investment'.<sup>7</sup> This focus is not particular to Australia. In most international jurisdictions, regional policy is viewed as economic policy with the objective of setting policy levers to avoid regional disparities and uneven development.<sup>8</sup> In its *Europe 2020 Strategy*,<sup>9</sup> the European Commission states that regional policy is an investment policy, supporting and promoting job creation, competitiveness, economic growth, improved quality of life and sustainable development. In Australia, in addition to its strong economic focus, regional policy also seeks to address liveability and ensure comparable services for those living outside the large cities.

In the current Australian context, neoliberal policy settings encourage capacity building and economic growth through harnessing regional attributes, rather than through external investment and government-led initiatives. Where there is recognised regional disadvantage, it is expected that regional policy has the potential to be a strategic intervention, rather than directly investing in initiatives.

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6 Productivity Commission 2017.

7 Collits 2012, 206.

8 Harrison 2006.

9 European Commission 2010.

## Policies impacting regional Australia

Traditionally, the Commonwealth has viewed regional development as a state responsibility because the states have constitutional responsibility for transport, resource management, infrastructure, land use activities, planning, the environment and local government, all of which are important to rural, regional and remote places. The distinction between regional policy and other general policies that have impacts on regional Australia is often blurred. Some national policies have more of a regional impact or focus than others, but they are not necessarily referred to as regional policies. For example, water and climate policies, energy and transport policies and National Competition Policy have all had a considerable influence on regionally based industry sectors and, in some cases, the liveability of rural, regional and remote communities, but their influence is not limited to the regions. Aboriginal interests, for example, are rarely specifically articulated in regional policy, partly because of the different ways these interests are incorporated into institutional structures. Generally, there is a separation of responsibilities and governance structures for regional development and Aboriginal affairs.

Even at the state level, regional policy has had decreasing prominence as businesses and populations have gravitated to the capitals. However, there have been some exceptions when, for political or market reasons, governments have re-focused their policy and investment attentions on the regions. Perhaps the most outstanding example of this was the introduction of the Royalties for Regions program by the Western Australian (WA) government in 2008, which will be discussed below.

*Postwar period*

There have been periods when the Commonwealth has taken a more overt regional policy position, imposing policies that have had significant influence on regional Australia. The post-Second World War period was the first time the Commonwealth specifically used regional policy as an economic mechanism to assist Australia to transform from a wartime to a peacetime economy through domestic reconstruction and a national regional development program. The Commonwealth encouraged postwar migrants to relocate to regional areas by sponsoring jobs on major infrastructure projects such as the Snowy Mountains Scheme and hydro-electricity projects in Tasmania. Returned servicemen were incentivised to take up soldier settlement blocks throughout rural areas to repopulate the hinterlands and reinvigorate Australia's agricultural industry.

At the same time, the Australian government encouraged particular sectors to develop, which had both direct and indirect impacts on regional areas and local economies. This was done through various reconstruction policies, rather than specific regional development policies. For example, tariff protection and import controls in the postwar period enabled manufacturing and new factory jobs, some, but not all, of which were in regional towns, such as Geelong, Newcastle, Whyalla

and Gladstone. This significantly boosted the populations of those towns and their role as regional centres.

From about 1950 Keynesian economics (promoting government's role in sponsoring economic growth through government expenditure and lower taxes to stimulate demand) became the principal ideology in Western nations.<sup>10</sup> In Australia, public investment in regions was justified as it stimulated growth and sought to achieve spatially equitable development.<sup>11</sup> This was not necessarily viewed as regional policy, but rather as regional development for the benefit of the entire nation. The Ord River irrigation scheme in WA, regulation of production and protection of commodities, fuel subsidies and cross-subsidisation of transport and communications infrastructure are examples. Until the mid-1970s, Australian industry was largely protected through subsidies and state regulation. The agricultural sector was a particular beneficiary with a range of subsidies and bounties to protect and support farmers. In addition, many regulatory authorities, statutory marketing and price support schemes were in place that shielded the agricultural sector from market fluctuations. Regional towns and communities were strongly supported by government-funded infrastructure on the principles of equity rather than market forces. Costly services such as transport networks, schools, health centres and other facilities were established throughout rural, regional and remote Australia, boosting communities and primary industry development. Despite the small and scattered towns and communities, the investment in rural, regional and remote places was justified by the notions of 'state paternalism'<sup>12</sup> and 'countrymindedness', which Lockie describes as the 'association of Australianness with rurality and the broad acceptance of the importance of rural activities for the Australian economy'.<sup>13</sup>

As early as 1890, the rural population was lamenting the 'evil of centralisation which would seek to advance the capital city ... at the expense of the country districts'.<sup>14</sup> From the 1920s, countrymindedness was manifested politically through the formation and electoral success of the Country Party, now National Party. Despite the dominance of the coastal cities since European settlement, the egalitarian notion of the archetypal, usually male, Australian who 'had a go and built the nation' had considerable electoral cache throughout Australia, with broad acceptance of 'agrarian socialist policies'.<sup>15</sup> As a result, voters in rural, regional and remote areas had a disproportionate advantage at the ballot box in many jurisdictions. It was only in 2005 that WA finally secured one-vote-one-value legislation; until then rural votes were worth almost twice the urban vote,<sup>16</sup> much to

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10 Tonts and Jones 1997.

11 Haslam McKenzie and Tonts 2005.

12 Tonts and Jones 1997, 173.

13 Lockie 2000, 17.

14 Black, quoted in Davies and Tonts 2007, 211.

15 Lockie 2000, 19.

16 Davies and Tonts 2007.



the chagrin of the Australian Labor Party (ALP) whose electorate was traditionally urban-based.<sup>17</sup>

In 1972, the Whitlam Labor government established the Department of Urban and Regional Development (DURD) and, once again, the Commonwealth overtly engaged in regional development policy. DURD's initiatives were based on specific policies aimed at improving co-ordination between the Commonwealth, states and local government. DURD formalised planning regions and developed a population distribution plan identifying growth centres.<sup>18</sup> However, the Commonwealth's regional policy focus was short lived. The Fraser government's election in 1975 ended the federal regional development policy foray, leaving it to the states to look after regional matters until the 1990s. Since then, the importance of regional policy at the Commonwealth level has waxed and waned. As noted by Eversole, 'the imperative to act in favour of Australian regions ebbs and flows with the political climate, creating a fragmented landscape of regional policy initiatives'.<sup>19</sup> Politics, therefore, has considerable influence over what policies are implemented and where they are applied.

#### *The late 20th century and neoliberalism*

Until the late 1970s, Australia's regional policy was framed by a commitment to equity, which supported communities throughout rural, regional and remote Australia but did not necessarily elicit efficient industries. The 1980s saw significant restructuring of policies and entire industry sectors after the election of the Hawke Labor government in 1983. Australia began to engage with global conditions and the international marketplace, and the broad government policy was reoriented to efficiency and market forces, which underpin neoliberal principles. The hallmarks of neoliberal policy principles are privatisation and state deregulation, increased reliance on market forces, rather than government intervention, to drive change, and devolution of responsibilities and functions from governments to the private and community sectors. Government, therefore, began to withdraw from its traditional role as a source of infrastructure investment and provider of services.

The shift to neoliberal principles was not limited to regional Australia, but its impacts were deeply felt in rural, regional and remote communities. The viability of regional communities came under scrutiny and government services and infrastructure expenditure began to be rationalised and/or centralised, shaped by user-pays and self-help ideals. Throughout the 1980s and 1990s, rural, regional and remote communities experienced reduced service delivery and infrastructure investment, as government responded to market demands rather than equity considerations. Communities were increasingly expected to more self-reliant. At a

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17 van Staden and Haslam McKenzie 2019a.

18 Tonts and Haslam McKenzie 2005.

19 Eversole 2016, 5.

government level, the Commonwealth began to devolve responsibility to the states, and the states shifted many service provision responsibilities to local government – the least resourced tier of government.

Australia's industries are now some of the most globally engaged and efficient in the world, but there are fewer people involved due to greater dependence on technical and capital investment, often at the expense of the labour force. Farmers, for example, use capital-intensive methods to maximise outputs; their farms are bigger to take advantage of economies of scale, but they often employ fewer people. The shift towards neoliberal principles in government policy boosted Australian gross domestic product but had a catastrophic impact on many rural, regional and remote communities as people left to access services in larger population centres or were squeezed out by the scale of many of the businesses left behind. This began a prolonged period of depopulation across all Australian rural, regional and remote communities, with the exception of those either on, or very close to, the coastline. By 2000, more than 80 per cent of the Australian population lived within 50 kilometres of the coast.<sup>20</sup>

The Hawke and Keating Labor governments (1983–96) implemented comprehensive neoliberal reforms, deregulated many sectors, including the finance industry, and sold off government entities such as Telstra, Qantas and the Commonwealth Bank to the private sector, all of which had immediate impacts on services at the local level, with many withdrawn because the private sector was not prepared to underwrite unviable businesses. Commonwealth and state governments were keen to re-orient the economy to capture the perceived benefits of an increasingly deregulated global marketplace. The Commonwealth government initiated several different regional development programs, purportedly to assist regional businesses and communities, but the emphasis was on economic efficiency, competitiveness and entrepreneurialism. The expectation was that self-directed and largely self-funded regional development programs would drive change. The commitment to *laissez-faire* (market-led) policies also led to the sale of state government assets, the privatisation of public services and the devolution of some public services to local governments. By selling off, contracting out or shifting the responsibility to private consultants and local government for inefficient publicly owned and operated assets and services, governments were able to reduce overall levels of expenditure and emphasise the role of markets in achieving an 'efficient' allocation and provision of services. In effect, neoliberalism privileged economic efficiency above social equity or, as Stilwell argued, 'structural efficiency first, redistribution later'.<sup>21</sup>

Australia was in recession in the early 1990s, and 'interest in regional development policies ... experienced somewhat of a resurgence' due to two

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20 Salt 2004.

21 Stilwell 1994, 61.

interrelated causes.<sup>22</sup> First, the neoliberal reforms' contribution to regional socio-economic disadvantage was becoming apparent, and second, the government was forced to consider the adverse implications of their reforms on the 1993 federal election.<sup>23</sup> Government was increasingly challenged by regional voter dissatisfaction as services and infrastructure were rationalised or withdrawn and local capacity in the regions was compromised.

The Hawke and Keating governments prepared numerous regional development reports between 1990 and 1993, emphasising bottom-up, local entrepreneurship but with limited funding support. The Kelty Report (*Developing Australia: a regional perspective*) on regional economic development<sup>24</sup> was launched in December 1993 by the federal government, with high hopes that employment difficulties and low incomes being experienced in many regional communities would be addressed. The report proposed the establishment of Regional Economic Development Organisations (REDOs) (later Regional Development Organisations [RDOs] and Area Consultative Committees [ACCs]) across Australia to develop individual regional strategies, promote regional development and improve policy co-ordination between federal, state and local governments, a strategy that was subsequently taken up in the federal government's Working Nation program in 1994.

Working Nation was a departure from previous approaches as it viewed 'government as facilitator, rather than the driving force',<sup>25</sup> but the overarching message was still self-reliance. Australia's geography, its spatial imbalances and the high concentration of its populations on the coastal fringes raised particular problems for government. In the absence of a coherent national policy for urban and regional development, jointly implemented by federal and state governments, there was limited manoeuvrability for the redress of regional inequality.

The agricultural sector was particularly hard hit by the transition from a favoured, government-supported industry sector to one that was expected to compete internationally without government subsidies or other protection. Economies of scale, technological primacy and increased harnessing of scientific and economic efficiencies demanded capital investment, and inevitably caused the failure of inefficient operations. These changes, over a relatively short period of time, accelerated a process of decline in parts of regional Australia that had historically been economically and socially dependent on agricultural production.

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22 Tonts and Haslam McKenzie 2005, 187.

23 Tonts and Haslam McKenzie 2005.

24 Taskforce on Regional Development 1993.

25 Kelly, Dollery and Grant 2009, 181.

*Regional environmental policy*

One new area of policy that did attract broad political and funding commitment was the environment. Since the early 1970s, environmental issues have increasingly come to the forefront of discussion regarding sustainability. Debates regarding the conflict between economic and environmental sustainability gained political traction. The Brundtland Report<sup>26</sup> crystallised the debates highlighting unsustainability in terms of a threat to survival. The report overtly linked environmental sustainability and the uneven distribution of economic benefits.<sup>27</sup>

After the Brundtland Commission emphasised the importance of sustainable development and pushed it to the top of the agenda of the United Nations and the multilateral development banks,<sup>28</sup> environmental protection became a major Australian government policy objective. In the late 1980s, the federal government embarked on a series of sectoral ecologically sustainable development investigations, which culminated in the adoption of the National Strategy for Ecologically Sustainable Development in 1992.<sup>29</sup>

A national land care program was jointly proposed by the National Farmers' Federation and the Australian Conservation Foundation, and in 1989 then Prime Minister Bob Hawke, in the Statement on the Environment, announced the Decade of Landcare. Water catchment and the management of salinity were two key areas. Programs included in the Decade of Landcare focused on implementing ecologically sustainable land use around Australia, promoting research and action regarding land degradation throughout rural, regional and remote Australia, and raising awareness of the importance of conservation and sustainable practices.

*Regional development policy in the 21st century*

The policies driving regional development at the conclusion of the 20th century aimed to maintain economic and social vibrancy through regional-scale governance and place-based solutions, in line with the 'new' paradigm that gained considerable traction in the first decade of the 21st century. The 'new' paradigm in regional policy has been strongly driven by the Organisation for Economic Co-operation and Development (OECD) since about 2006. It emphasises area-specific or place-based approaches, rather than whole-of-government arrangements.

Much like other Liberal–National (Coalition) governments, the Howard government (1996–2007) showed little inclination to drive a national regional development agenda, maintaining 'that local and regional development was a State responsibility' and the Commonwealth was often a 'competitor, rather than a partner of the States'.<sup>30</sup>

26 World Commission on Environment and Development 1987.

27 Ekins and Jacobs 1995; Kane 1999.

28 Daly 1990.

29 Godden 1997.

30 Tomaney 2010, 29.

The place-based approaches, framing the regional development ‘problem’ as the lack of regional competitiveness and underused potential, was a convenient reason for the Howard government not to pursue a national regional policy agenda.

Despite the rhetoric that regional policy should be shaped by the regions themselves, the control mechanisms of power and resources resided in the federal and state parliaments and resources flowed according to political and centralised policy commitments. Almost counterintuitively, the ALP has traditionally been more committed to implementing regional policy than its more conservative Liberal/Country/National Party opposition, continuing its long tradition of bypassing the states. Between 1996 and 1998, the Howard government distanced itself from ‘the Keating Government’s regional interventionism’<sup>31</sup> and dismantled the Regional Development Program. The REDOs and RDOs, were scrapped although some RDOs survived as local corporations. The ACCs remained and were restructured for the purpose of channelling federal funds to regional communities,<sup>32</sup> but they were usually small organisations with limited regional impact.

Structural changes in the financial, transport, manufacturing and trade sectors affected the geographic distribution of people, industries and wealth in regional Australia, inducing new configurations. Under the Howard government, labour and employment conditions were deregulated and flexible work arrangements such as fly-in/fly-out (FIFO) and drive-in/drive-out (DIDO) became increasingly popular. Long-distance commuting practices were used by many private and public sector organisations, enabling employees to choose where they live, often in the capital cities and larger, better-resourced regional centres, and travel to work in other places, usually accommodated in employer-paid accommodation.<sup>33</sup> Flexible work arrangements reduced the need to continually invest in smaller, less resourced communities, causing many benefits, such as income expenditure and housing investment, to flow to the bigger centres instead.

Continued orientation of the Australian economy towards global markets intensified the effect of market mechanisms, causing continual change in technologies, products, markets and modes of distribution. The impact of technological change was double-sided: it increased demand and employment, but it also displaced workers and made some jobs obsolete, particularly in the agricultural and manufacturing sectors.

From a social perspective, restructuring was not achieved without pain and a sense of loss for many in regional Australia. The consistent paring back of regional development investment continued to incur voter backlash. This was particularly evident in the rise of One Nation in the 1998 Queensland election. One Nation received 23 per cent of the primary vote, and won 11 of 89 seats in the 1998

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31 Collits 2008, 295.

32 Paül and Haslam McKenzie 2015.

33 Haslam McKenzie 2016.

Queensland state election.<sup>34</sup> The party's success was generally attributed to its appeal to rural voters, who were increasingly disillusioned with the major parties and felt their lifestyles were under threat.<sup>35</sup> The Commonwealth responded with attempts to soften the non-interventionist policy direction, but once again there was limited time and investment, resulting in policy fragmentation,<sup>36</sup> and the electorate was not convinced.

#### *The resources boom*

From 2001 onwards, Australia experienced a decade of outstanding growth and prosperity, principally on the back of a resources boom, fuelled by almost insatiable demand from China for resources, including coal, iron-ore, energy and agricultural products. Many did not see this boom period coming and many rural, regional and remote communities were unprepared, especially those at the centre of the mining boom, in regions such as the Pilbara in WA and the Surat and Bowen basins in Queensland. This boom period continued unabated for more than a decade, despite the GFC (2007–09) dragging down the major global economies.

The boom had broad impacts across all of Australia, with many people and communities, especially in the cities, where most long-distance commuting miners resided and businesses and mining service providers were located, enjoying the benefits. The outcomes for people living in rural, regional and remote communities were mixed. For those communities close to mining activities, the impacts were not always beneficial, with intense demand for housing, infrastructure, services and labour driving up prices and displacing many who could not compete with the wealthy mining companies. Furthermore, the decades-long neglect of regional services and infrastructure impeded responsive development,<sup>37</sup> causing housing shortages and inadequate utility services.

The outcomes of the boom are a classic example of uneven growth and the two-speed economy. Regional Queensland and WA bore the consequences of the boom conditions; the former due to its large coal mining operations and the emerging coal seam gas industry, and the latter principally due to its huge and rich iron-ore resources, but also its offshore oil and gas reserves. In the Pilbara, at the height of the boom, the overall cost of living was 37 per cent higher<sup>38</sup> than that in Perth.

While the majority of Australia's rich mining resources tend to be in remote locations, some are located where agriculture is also well established and highly productive – for example, the Darling Downs in Queensland, the Hunter Valley in New South Wales and the Peel region in WA. Land use conflict, access to land and water resources and pressure on services caused considerable antagonism between

34 McManus and Pritchard 2000.

35 Tonts and Haslam McKenzie 2005.

36 Beer 2007.

37 Haslam McKenzie and Rowley 2013; Lawrie, Tonts and Plummer 2011.

38 Department of Regional Development and Lands 2011.

farmers and mining companies,<sup>39</sup> and many state agencies and local governments did not have the capacity and were not properly resourced to deal with the issues.

*Critics of the status quo*

Communities and industry leaders looked to government for regional policies that would support towns and communities and help them retain the benefits from boom economic conditions. Beer,<sup>40</sup> along with others,<sup>41</sup> contends that regional development in Australia was hampered by a lack of long-term strategic directions and the outcomes of the system of federalism.

Beer is particularly critical of political ideologies grounded in neoliberalism that were wary of direct intervention in regional economies and emphasised short-term political responses, rather than long-term strategic interventions. As explained by Tiley, 'the Australian Government had the financial capacity to empower an effective regional development network; the state and territory governments had the constitutional power; while local government had neither the funding nor the power, but had the commitment needed to deliver change.'<sup>42</sup> Beer claims that the division of powers between the three tiers of government contributed to a clouding of the lines of responsibility and accountability, and that the importance and role of regional development were not understood or recognised.<sup>43</sup> Consequently, resources and responsibilities are still abrogated by the spheres of government with superior power, which instead focus on short-term 'political point scoring'. This was particularly evident in the Rudd and Gillard governments.

In 2007, the Rudd ALP government sought a return to interventionism and established Regional Development Australia (RDA) committees to administer regional funds through local government authorities, rather than through state government agencies,<sup>44</sup> once again reverting to the traditional ALP practice of bypassing state governments. RDA committees replaced REDOs (later RDOs and ACCs), which were Commonwealth-funded offices in locations across regional Australia. The committees' purpose has generally remained the same since the REDOs were established during the Keating government in 1993: identify key regional economic and industry development issues, investigate the prospects for a more even distribution of regional development and employment, examine actors influencing regional investment and suggest appropriate policy changes.

The REDOs, RDOs and ACCs were ineffectual, however, because they did not have the capacity to make a significant difference, lacking both resources and

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39 Hoath and Pavez 2013; Zhang and Moffat 2015.

40 Beer 2007.

41 Collits 2012.

42 Tiley 2013, 12.

43 Beer 2007.

44 Sotarauta and Beer 2017.



political continuity. The RDA committees were no different, although under Rudd the budget allocation was reduced and the community members working on the committees providing overarching governance were unpaid. The rhetoric of support for regional Australia was familiar, but the electorate was disgruntled, and the 2010 election returned a hung parliament. The ALP finally formed government after three independent, rural-based politicians gave their support in return for generous concessions to regional Australia.

### *Royalties for Regions*

The Rudd and Gillard governments were not the only governments responding to voter backlash. As van Staden and Haslam McKenzie observe, ‘under the right conditions, compounding socio-political and economic change can dramatically alter government policy’.<sup>45</sup> The intensity of the mining boom in WA and the ill-preparedness of the state and communities for its social and economic impacts caused considerable criticism to be directed at the ALP state government. In the 2008 state election, neither of the major parties won a majority, and the National Party, a then minor party traditionally representing the non-metropolitan constituency, became kingmaker in order to avoid a hung parliament.

The National Party’s powerbrokers negotiated the implementation of the Royalties for Regions program in a last-minute deal with the WA Liberal Party. This was a significant departure from a non-interventionist, neoliberal and ‘new paradigm’ policy agenda. The Royalties for Regions program allocated a further 25 per cent of the state’s resources royalty income to non-metropolitan regions, over and above existing regional allocations. It transformed regional development into a billion dollar effort, dwarfing previous government investment since the 1960s.<sup>46</sup> While more \$1 billion was allocated to upgrading facilities, infrastructure and planning capacity in the Pilbara, the Royalties for Regions largesse was spread throughout rural, regional and remote communities in WA.

Importantly, the National Party, in its negotiations with the Liberal Party after the 2008 election, chose not to formalise a ‘coalition’, but rather argued that it was an ‘alliance’,<sup>47</sup> putting the Liberal Party on notice that the support of the National Party could not be assured unless rural, regional and remote communities were adequately looked after.

In 2017, the ALP won government again in WA, and while the Royalties for Regions program has not been revoked, investment in rural, regional and remote WA has been significantly pared back and the National Party’s parliamentary influence has significantly reduced.

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45 van Staden and Haslam McKenzie 2019b, 1.

46 van Staden and Haslam McKenzie 2019b.

47 Phillimore and McMahon, 2015.



*The Abbott and Turnbull governments' regional policy agenda*

Little changed with regard to regional policy under the Abbott and Turnbull Coalition governments (2013–18). As noted, the hallmarks of 21st-century regional development are intermittent commitment, blame-shifting, poorly resourced policy and rebadging of old initiatives. In 2016, under the Turnbull government, the Commonwealth reviewed the RDA committees, recommending their cessation.<sup>48</sup> The review supported regional-specific solutions and the alignment of regional development boundaries with those of states and territories. It also recommended 'strengthening regional economies by promoting economic investment opportunities in regional Australia to the national and international market',<sup>49</sup> in line with the global reorientation policies espoused since the 1980s.

However, the author of the review, Warwick Smith, considered the Commonwealth commitment to regional Australia as piecemeal at best and perhaps even tokenistic: 'the Australian Government, along with most state and territory governments, have not shown total commitment to the RDA programme'.<sup>50</sup> Smith identified a range of structural inefficiencies that hindered the functionality of RDA committees, but perhaps the most fundamental weakness of the program was the lack of appropriate funding or support to enable the committees to deliver the Australian government's regional agenda: 'The Australian government delivers its broader policy and programs, even regional programs, in isolation to, and separately from, the RDA programme'.<sup>51</sup>

The budget allocation for RDA committees has not changed for a decade, despite costs increasing over that time. In large jurisdictions such as WA and the Northern Territory, additional challenges such as the high costs of doing business in many rural, regional and remote places, travel time over large distances, poor connectivity and problematic telecommunications services, further undermining the efficacy of RDA committees. The annual budget of \$18 million is expected to fund the entire national RDA program, across 52 committees. This essentially pays the salaries of the executive directors, with little left to achieve the central purpose of the committees: to support the development of regional Australia. Funding allocations available for projects, and decisions regarding how and where the funds will be spent, are often determined by other Commonwealth government commitments or local federal politicians' agendas, rather than the local RDA committee or agreed funding priorities.

The arrangements reflect the 'new' paradigm of regional development, exhibiting 'the familiar mixture of unconnected regional programs; inadequately resourced regional structures ... and an unflinching faith that spending large

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48 Commonwealth of Australia 2016.

49 Commonwealth of Australia 2016, 7.

50 Commonwealth of Australia 2016, 2.

51 Commonwealth of Australia 2016, 2.

amounts on infrastructure projects big and small across most regions is the best way to fund regional development'.<sup>52</sup>

In 2017, the Commonwealth released its 'Regions 2030 – Unlocking Opportunity' policy.<sup>53</sup> Despite its new name, the policy includes elements of many of its predecessors and of the 'new' paradigm, focusing on local decision making, tailor-made regional solutions and unlocking regional economies, all without a new funding model. Despite various experiments, regional bodies with political power have never become a fixed part of the regional administrative landscape and Commonwealth regionalisation, in particular, has always been controversial.<sup>54</sup>

The lack of stable leadership in the federal ministry has undermined commitment and policy coherence. Federal leadership changes since 2010 and major political disruptions associated with citizenship credentials of politicians have meant that regional development has not been a focus of successive governments, and the portfolio has lacked ministerial and hence leadership consistency. Since 2010 there have been ten ministers with responsibility for the RDA network. Not surprisingly, regional development policy has been described as 'fragmented' by a range of commentators and researchers.<sup>55</sup>

## Conclusions

Regional Australia is, as you would expect, unique. However, many of Australia's current regional development policies are not dissimilar to those of other First World nations, despite Australia's significant climatic, political, geographic, environmental and economic differences. Nonetheless non-metropolitan areas are often viewed as the policy periphery, struggling to maintain population, vibrancy and viability as businesses and people are drawn to the political and economic centres located in capitals.

While Australian regional development policy dictates that the regions should have considerable autonomy because they understand local context, conditions and potential opportunities, the resources and decision-making power tend to reside in Canberra or the respective state capitals. Despite the Commonwealth claiming that regional development is the remit of the states for most of the last 120 years, it dictates overarching national policy by virtue of its fiscal dominance. Furthermore, it has considerable power over the other spheres of government and the outcomes for rural, regional and remote communities. The states also play a significant role in regional development, dictating how resources will be spent and where; 'thus regional Australia's organisations, institutions and governance mechanisms remain

52 Collits 2012, 28.

53 Commonwealth of Australia 2017.

54 Kelly, Dollery and Grant 2009, 181–2.

55 Beer, Maude and Pritchard 2003; Commonwealth of Australia 2016; Dollery, Buultjens and Adams 2011.

structurally on the periphery'.<sup>56</sup> It is not surprising then that regional development initiatives and policies have lacked consistency, causing duplication and widening service gaps across multiple government levels.

According to Sotarauta and Beer, 'to most observers, the regional development system in Australia appears chaotic and underfunded relative to needs'.<sup>57</sup> The lack of uniformity and consistency of both Commonwealth and state regional development agencies have contributed to a national regional framework that is without coherence.<sup>58</sup> Consequently, 'fragmentation' in regional development has been a major problem, with policy responsibility frequently shared between the federal, state and local spheres of government<sup>59</sup> and a slew of organisations, including many from the private sector, involved in the delivery of regional development programs. There are no signs that these trends are likely to change while Australian regional development policy is characterised by 'modest government investment and locally provided inducements'.<sup>60</sup>

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<sup>56</sup> Eversole 2016, 132.

<sup>57</sup> Sotarauta and Beer 2017, 214.

<sup>58</sup> Beer 2000.

<sup>59</sup> Dollery, Buultjens and Adams 2011, 241.

<sup>60</sup> Beer 2015, 22.

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#### About the author

Professor Fiona Haslam McKenzie was educated in Australia and the USA. Prior to her current role, she was the WA director of the Australian Housing and Urban Research Institute, served as the principal research leader of the Regional Economies – Enduring Community Value from Mining program from 2012 to 2015 and was subsequently appointed as co-director of the Centre for Regional Development at the University of Western Australia in 2015. Fiona has served on several government and private sector boards, undertaken work for corporate and small business sectors and has published widely.

# Social policy

Greg Marston and Zoe Staines

## Key terms/names

civil society, distributive justice, evidence-informed policy, liberalism, paternalism, social policy, welfare state, workfare

Social policy is guided by questions of distributive justice: who gets what in society, under what circumstances, and how. Social policy is generally considered to be synonymous with the 'welfare state', which sees government as a direct provider or regulator of private and not-for-profit social welfare services including education, health, community services, social housing, occupational welfare and income support. These forms of welfare are usually underwritten by social insurance schemes, which redistribute funds accumulated through taxes and levies to those in need of support. They can also take other forms, like the provision of tax expenditures and informal care provided through civil society.<sup>1</sup>

The various forms of welfare, provided through a combination of direct government service delivery, markets, non-profits and civil society, are referred to as a mixed economy of welfare. Social policies tend to interact and intersect in a number of different ways, forming a complex web of enabling and disabling structures and systems. For example, the right to access and engage in meaningful education is deeply linked with other areas of social policy, because policy

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1 Marston, McDonald and Bryson 2014.

structures can either establish the architecture that enables or denies this access and engagement (like promoting access to quality early childhood care).<sup>2</sup> Social policy can, therefore, have direct and substantial impacts on how people live their lives, the choices available to them, and their overall standard of living. Social policy decisions are also often highly politicised and deeply contested as the meeting of human needs has both a moral and material dimension.

This chapter explores some fundamental characteristics of social policy including a brief history of social policy in Australia, how it is made, by whom, and key debates. As you will see, social policy plays a powerful role in shaping how society operates, how it redistributes wealth, how it cares for and controls its most disadvantaged members, and provides tax breaks for middle and upper income Australians. Summing up the role of the conflicted welfare state in an essay titled ‘What is social policy?’, the pioneering scholar of social administration Richard Titmuss wrote that ‘what is “welfare” for some groups may be “illfare” for others.’<sup>3</sup> In this chapter we seek to draw out these dilemmas and contradictions.

#### Social policy in Australia: recent history

Prior to Federation in 1901, social welfare in Australia was largely the purview of non-government charitable organisations. Smyth described Australian colonial society as being ‘cool’ when it came to government-provided welfare, but ‘hot’ on promoting equal opportunity.<sup>4</sup> The focus was on supporting citizens to be self-sufficient rather than looking to government for poverty relief. This represented a contrast to the (often stigmatised) provision of state welfare under the Poor Laws in Britain.<sup>5</sup>

Dickey described the years following Federation as being characterised by a transition away from an age of charity to an age of rights.<sup>6</sup> The Harvester Judgement, handed down by Justice Higgins of the Court of Conciliation and Arbitration in 1907, established the first minimum ‘living wage’ for Australian workers.<sup>7</sup> In 1908, the new Australian government also introduced a fixed-rate old-age pension, though this was not universal. For example, only those who passed the means test qualified and some groups, like Indigenous Australians, were explicitly excluded.

Thereafter, around the Second World War, Australia’s welfare system was dramatically redefined and expenditure increased exponentially.<sup>8</sup> As Shaver explained, ‘Australia entered World War II with only fragmentary welfare provision:

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2 Gupta and Simonsen 2016; Lamy 2012.

3 Titmuss 1974, 4.

4 Smyth 2012, 2.

5 Smyth 2011.

6 Dickey 1980.

7 Lloyd 2017.

8 Watts 1999; Watts 1987.



by the end of the war it had constructed a “welfare state”.<sup>9</sup> This was partly prompted by the formation in 1941 of a Joint Parliamentary Committee on Social Security by the Menzies government (1939–41), which reviewed existing social policies and recommended new measures to improve postwar life.<sup>10</sup>

A series of new social policies were introduced during and in the aftermath of the Second World War, including widows’ pensions, uniform income tax in 1942, and the National Welfare Fund in 1943–44, which funded the national unemployment benefit.<sup>11</sup> The provision of national unemployment benefits was, at least in part, a response to the anticipated demobilisation of military personnel in the post–Second World War period.<sup>12</sup> However, the benefits were means-tested rather than universal – a contrast to the approach then taken in Britain.<sup>13</sup>

In 1945, then-Treasurer (and later prime minister from 1945–49) Ben Chifley referred to Australia’s growing social security system as a safety net much like that used by a trapeze artist: ‘The net is not, of course, part of the main show ... The more competent the performer, the less the net will be used.’<sup>14</sup> The underpinning belief was that the best form of welfare was a job and, thus, the emphasis was on ensuring equal access to fair employment. The social security system was perceived as a ‘fall-back’ measure only. It is for this reason that Australia’s postwar welfare state came to be characterised in the literature as ‘a wage earner’s welfare state’, or more precisely given the nature of the labour market during this period ‘a white, male wage earner’s welfare state’.<sup>15</sup>

During the 1950s and 1960s, there was only incremental social policy reform, perhaps in part because of very strong employment throughout the period.<sup>16</sup> This preceded further widespread expansion of the welfare state during the 1970s, when unemployment rates began to increase with the 1974 global recession.<sup>17</sup> A series of inquiries was also initiated to examine social welfare, including the Commission of Inquiry into Poverty in Australia, or the ‘Henderson Inquiry’, established by the McMahon Coalition government (1971–72) and whose terms of reference were later expanded under the Whitlam Labor government (1972–75). Following this (and other) public inquiries, a raft of changes were implemented, which had the effect of moving welfare from being viewed as residual, as per Chifley’s description, to becoming a fundamental aspect of citizenship.<sup>18</sup>

The Whitlam government’s reforms were undertaken on the basis that domestic social policy should focus on achieving a more ‘just’ and ‘liveable’

9 Shaver 1987, 411.

10 Shaver 1987.

11 Marston, McDonald and Bryson 2014; Watts 1999, 92.

12 Dollery and Webster 1995.

13 Smyth 2011.

14 Chifley in Smyth 2012.

15 Bryson 1992; Castles 1985.

16 Regan 2014.

17 Gregory 2004.

18 Smyth 2011.



Australia.<sup>19</sup> They involved an extensive program, including increased expenditure on public housing, a revision of school funding rules to recognise level of need, the removal of all fees for tertiary students, and the introduction of the country's first universal health care, Medibank.<sup>20</sup> Whitlam also established an Indigenous land rights scheme in the Northern Territory (NT) and announced an explicit shift in social policy focus for Indigenous Australians from 'protection' to self-determination.<sup>21</sup>

In the late 1980s and early 1990s, Australia experienced some further fundamental social policy shifts, including major pension reforms and the introduction of the Working Nation policy, which signalled a transition away from the public provision of unemployment support services to a quasi-market model.<sup>22</sup> This was coupled with the introduction of 'active labour' policies from 1986 onwards, which placed increased conditions on unemployment benefits.<sup>23</sup> Social policy under recent Australian governments has been comparatively conservative and routinely underpinned by neoliberal arguments about reciprocity, the benefits of market provision and individual responsibility.<sup>24</sup> However, the overall size of Australia's welfare expenditure envelope has nevertheless increased.

#### Recent social welfare expenditure in Australia

Australia's welfare expenditure increased from \$117 billion in 2006–7 to \$157 billion in 2015–16, representing a growth of 3.4 per cent per annum.<sup>25</sup> Simultaneously, expenditure on health between 1989 and 2014 increased from 6.5 per cent to 9.7 per cent of Australia's Gross Domestic Product (GDP).<sup>26</sup> In 2015–16, the Australian government also lost a total of \$47 billion in tax expenditures, which is additional to the total welfare expenditure reported above.<sup>27</sup> Finally, the sheer number of people involved in delivering welfare services has also increased, with the 'welfare workforce' growing by 84 per cent since 2005 and representing 4.1 per cent of the total Australian workforce in 2015.<sup>28</sup>

Klapdor and Arthur frame these increases as being largely a result of 'population growth, population ageing, labour market changes and economic

19 McDougall 2015.

20 McDougall 2015. Medibank was later weakened under the Fraser government (1975–83) before being revitalised as Medicare under Hawke (1983–91).

21 Sanders 2013.

22 Marston, McDonald and Bryson 2014; van Hooren, Kaasch and Starke 2014.

23 Deeming 2016.

24 For example, see Johnson 2011; Ryan 2005.

25 AIHW 2017.

26 AIHW 2016.

27 AIHW 2017.

28 AIHW 2017.

circumstances as well as policy changes relating to eligibility requirements.<sup>29</sup> They are also partially due to the addition of the National Disability Insurance Scheme (NDIS), which is expected to increase expenditure on disability services from \$4.7 billion in 2015–16 to around \$24 billion in 2019–20.

Notwithstanding these overall increases, Australia's social welfare expenditure as a percentage of GDP continues to be comparatively lower than most other countries in the Organisation for Economic Co-operation and Development (OECD).<sup>30</sup> Welfare in Australia, in the form of income support payments, is also highly targeted. In 2017, about 80 per cent of Australia's spending on cash welfare benefits was means tested, making Australia the highest means-testing country in the OECD.<sup>31</sup>

Against this backdrop, the gap between rich and poor in Australia is growing. The wealthiest 20 per cent of households accounted for 59 per cent of total household wealth in 2004–5 and 63 per cent of total household wealth in 2015–16.<sup>32</sup> In contrast, the poorest 20 per cent of Australian households only accounted for around 1 per cent of total household wealth in 2004–5 and also in 2015–16. (The gap did, however, remain largely stable from 2013–14 to 2015–16.) Wealth also tends to be distributed unequally across geographical regions and for different groups. For instance, median disposable household income for Indigenous households in urban areas between 2011–16 increased by \$57 per week, but fell by \$12 per week in very remote areas where incomes were already far lower.<sup>33</sup> In general, Indigenous Australians are more likely to experience absolute as opposed to relative poverty.<sup>34</sup> Addressing these disparities requires political and policy change. Ongoing policy debates about the means and ends of welfare are underpinned by competing moral arguments, as the following section illustrates.

How is social policy made, and by whom?

The question of who is involved in making social policy is important, because different policy actors will have different worldviews, moral beliefs, experiences and agendas. This is particularly apparent when thinking about the different goals and objectives of state actors (i.e. bureaucrats and elected politicians) and non-state actors (e.g. individuals, collectives, not-for-profit and private-sector organisations).

State actors shape social policy through their direct role in the policy-making process. Policy advisers in the public service or in ministerial offices have the role of exploring social policy 'problems' or 'issues' as they arise, gathering research

29 Klapdor and Arthur 2015.

30 OECD 2016.

31 AIHW 2017.

32 ABS 2017; ABS 2005.

33 Markham and Biddle 2018.

34 Marston, McDonald and Bryson 2014.

and evidence around different options, undertaking consultation, and providing information and advice to elected officials about possible courses of action. In Australia, elected officials then have the final decision-making power over government social policy; it is up to members of parliament and Cabinet to decide which policies are to be pursued, how, when and why.

Non-state actors also have an important role to play in shaping, delivering and sometimes also designing social policy. For instance, they may:

- seek to influence the focus and development of government social policy through advocacy, lobbying, and participation in consultation
- deliver government-led/designed social policy, particularly through new public management (NPM) contracting arrangements
- initiate and develop social policy themselves, either with or without the involvement of the state.

Processes for making social policy will inevitably differ between these groups. There are, however, recognised standard processes for policy making in the public sector – often articulated through the concept of policy ‘cycles’.<sup>35</sup> Althaus, Bridgman and Davis’ Australian ‘policy cycle’ proposes eight stages of policy development: (1) issue identification, (2) policy analysis, (3) policy instruments, (4) consultation, (5) co-ordination, (6) decision making, (7) implementation, and (8) evaluation. The authors argue that policy makers do not necessarily step through these stages consecutively, but that the policy process may instead be haphazard: a kind of ‘policy dance’.<sup>36</sup>

Others have critiqued the Australian ‘policy cycle’ on the basis that it represents an overly technocratic view of policy making and does not adequately grapple with the complexities of real life, including political dimensions and other constraints.<sup>37</sup> Indeed, the process of identifying and framing social policy ‘issues’, choosing which issues demand a response (and which do not), identifying and interpreting evidence, and making recommendations is inevitably political, demanding a series of subjective and collective value judgements. Below, we turn to two aspects of this process – the role of evidence, and the cyclical and iterative nature of policy making – to illustrate its somewhat messy nature.

#### *Evidence-informed social policy*

As indicated by the ‘analysis’ and ‘evaluation’ steps of the Australian policy cycle, social policy is not merely the end product of a contest between different ideological perspectives. It is also influenced and informed by empirical evidence. Although this is not a new concept, it gained prominence with the growth of the

35 Althaus, Bridgman and Davis 2018; Lasswell 1951.

36 Althaus, Bridgman and Davis 2018; Edwards 2017.

37 For example, see Colebatch 2006; Howlett and Ramesh 2003.

‘evidence-based policy’ movement in the 1990s and early 2000s.<sup>38</sup> The movement grew out of the UK and was also taken up in Australian policy circles, supported primarily on the basis that it provides a foundation for improved public policy decision making grounded in objective ‘truth’ rather than ideology, and can also improve efficiencies and outcomes.<sup>39</sup> However, what this commitment means in practice remains somewhat murky. For instance, evidence-based policy raises questions about which types of evidence should be relied upon, how well they approximate ‘truth’, how they should be used, and to what extent they can or should influence policy outcomes.<sup>40</sup>

There is a great deal of contestability regarding the value of various types of evidence for policy development. For instance, there continues to be much debate regarding the utility of ‘evidence hierarchies’, which generally place greater value on evidence produced through experimental and quasi-experimental quantitative studies<sup>41</sup> over evidence produced through qualitative inquiry.<sup>42</sup> This preference for particular research methods over others, however, shapes and moulds the types of knowledge that are able to be produced, often favouring positivist ontologies (that is, those that perceive the world as objectively ‘knowable’ and ‘measurable’, typically through rational scientific means). As Marston and Watts argued:

If knowledge operates hierarchically, we begin to see that far from being a neutral concept, evidence-based policy is a powerful metaphor in shaping what forms of knowledge are considered closest to the ‘truth’ in decision-making processes and policy argument.<sup>43</sup>

There are many arguments for the inclusion of richer forms of knowledge in social policy inquiry and design: forms of knowledge that do not necessarily appear at the top of evidence hierarchies. This is particularly the case in the social sciences, because despite common assumptions that particular policies or programs can directly produce certain anticipated outcomes, trajectories of change are rarely simple or linear when dealing with humans’ lived experiences.<sup>44</sup> Any change in an individual’s life is more likely to be the result of the intricate interplay of personal and environmental factors rather than any policy or program alone.<sup>45</sup> Thick qualitative description can be particularly useful in teasing out these complexities

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38 Nutley, Davis and Walter 2002.

39 Head 2009.

40 Marston and Watts 2003.

41 That is, studies that use either randomly or non-randomly sampled/allocated control groups to isolate the effects of the variable(s) being studied.

42 For example, detailed qualitative case studies; see also, the Maryland Scientific Methods Scale in What Works Centre for Local Economic Growth 2018.

43 Marston and Watts 2003, 145.

44 Woolcock 2013.

45 Lowe and Wilson 2015.

and providing fuller accounts of the impacts of different policies, particularly when individuals are exposed to and affected by multiple policies and programs at once.

The process of developing and framing research studies also involves implicit assumptions that inevitably influence subsequent findings. For instance, the types of research questions being asked in a study permit the researchers to 'discover' some forms of evidence, but ignore (or fail to discover) others. Furthermore, social constructivists argue that all 'truths' are not necessarily discoverable or knowable. Thus, there is inevitably an implicit bias in the types of knowledge that are able to be produced through common and accepted research methodologies, regardless of their specific methodological leanings.

The extent to which evidence influences policy outcomes is also a cause for debate. As Colebatch and others have discussed, the policy development process is inevitably a contest between different types of knowledge, different ideologies and diverse ideas.<sup>46</sup> It is not driven by evidence alone. Thus, it is unclear what role evidence *does* and *should* play within this contest, and whether this depends on changing contexts and circumstances (e.g. evidence availability).

In response to the potential shortcomings of evidence-based policy, some have advocated a shift to the more pragmatic aspiration of being evidence informed.<sup>47</sup> This involves an acknowledgement that there are various forms of evidence, that evidence is not neutral, and that policy making is also guided by factors other than evidence alone.

*Social policy as an ongoing, iterative process, rather than an end 'product'*

There is an often-held misconception that once social policies are designed, they move along the policy conveyer belt to be implemented in an apolitical and exacting manner. However, this view treats social policy as an end 'product', which arguably overemphasises the linearity of the relationship between agenda setting, policy design and implementation. Ewig and Palmucci stated:

We know from previous studies of implementation that one cannot assume that policies will simply be implemented as designed, nor is the process of implementation a linear one from policy passage to simply successful or unsuccessful. Instead, implementation is an interactive political process involving political calculations and negotiations among diverse parties who often have competing political stakes.<sup>48</sup>

Most social policies continue to be iteratively designed and redesigned, even if only in an incremental sense, during their implementation and throughout their

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<sup>46</sup> Colebatch 2006.

<sup>47</sup> For example, see Nevo and Slomin-Nevo 2011.

<sup>48</sup> Ewig and Palmucci 2012, 2491.

delivery – a sort of continual moulding and reshaping to suit different local circumstances, match different stakeholders' needs, respond to changing contexts, and/or to align with the views and needs of those responsible for social policy delivery. This can happen in a bottom-up way, where those delivering social policy – the 'street-level bureaucracy' of social workers and other human service professionals – adapt policies to suit local needs.<sup>49</sup> It may also occur through top-down changes as a result of feedback loops in the policy cycle (e.g. in response to policy evaluation findings) or in response to other changes in context and circumstances.

Moran and Elvin argued that 'bottom-up' policy adaptation can hold strengths insofar as it nurtures feedback between social policy designers and the lived experiences of those at the grassroots level.<sup>50</sup> This can be helpful in democratising the delivery of social policy, empowering social workers and other professionals to redefine policy goals in a way that suits local circumstances, and lessening the overall distance between high-level policy objectives and ground-level policy experiences. However, local-level decision making can also shift the ways and means of social policy in a manner that is less transparent and accountable, which can lead to discrepancies and inequities across different jurisdictions. The increased reliance on not-for-profit organisations to deliver social policy in Australia can also serve to deflect political risk and responsibility away from governments.<sup>51</sup>

#### Debates and non-agenda issues

Social policy is often highly contested. Debates regularly invoke questions about who is deserving of different forms of welfare, and the overall size of Australia's welfare funding envelope. There is also widespread debate about the nature and strategy behind welfare in Australia, including disagreement concerning the 'social engineering' objectives of some social policies in line with behavioural economics. This is particularly apparent in unemployment policies, which embed productivist assumptions about the pre-eminence of paid work over all other forms of work, such as informal care and unpaid domestic labour. An ethics of care is marginalised, while the paid work ethic is eulogised in these debates.

#### *Who are the 'deserving' beneficiaries of social policy?*

Social policy is an avenue through which goods and services, both tangible and intangible, can be provided to some members of society, while simultaneously being denied to others. Decisions about the distribution of government-funded welfare resources frequently require governments to draw boundaries around

49 Lipsky 2010; Moran and Elvin 2009.

50 Moran and Elvin 2009.

51 Wright, Marston and McDonald 2011.

identities and social groups, labelling some as deserving and others as less so. These boundaries are sometimes arbitrary and are often fraught.

The concept of legal citizenship provides an example, as it opens the door for individuals to access a range of social resources that are otherwise unavailable to non-citizens. Whether this is always fair or just is debateable. For example, before being recognised as citizens in the 1967 constitutional referendum, Indigenous Australians were largely denied basic rights on the basis of their non-citizen status. This included being denied access to many forms of social welfare that were enjoyed by settler Australians. Instead, Indigenous Australians were (and arguably still are) subject to domestic policies and practices that problematised them as requiring heavy modification and intervention to conform to the standards of settler society.

Who is deemed to be deserving of social welfare thus depends on how social policy ‘problems’ are framed, and which individuals or groups are problematised as a result of that framing. Bacchi’s ‘What’s the problem?’ approach recognises that policy ‘problems’ are not objective truths, but are instead socially and discursively constructed and reproduced.<sup>52</sup> According to Bacchi’s approach, social policy responds to ‘problems’ that, just as they have been socially constructed, can also be questioned, contested and disrupted.

With regard to gender equality, Bacchi and Eveline stated, ‘policies do not simply “deal with” the “problem” of “gender inequality”. Rather, policies create different impressions of what the “problem” of “gender equality” entails.’<sup>53</sup> Bacchi later discussed policy responses intended to address the pay gap between men and women, focusing on one response that provided additional training to women.<sup>54</sup> Bacchi argued that the response placed the blame for the gap on women’s shoulders, implying that it was women’s *lack* of training that had caused the pay gap. This framing, however, ignores other fundamental structural and historical issues that also play a critical role.

Discourses around ‘welfare dependency’ also provide a pertinent example of how framing can directly impact social policy responses. For instance, recent discourse tends to frame welfare as being innately problematic, with dependency on the state perceived as a moral bad, while dependency on markets is celebrated as a marker of success and independence. Welfare ‘poison’ is now perceived as a core contributor to long-term social disadvantage, rather than a potential solution.<sup>55</sup> Therefore, the policy ‘problem’ shifts from claims that there is not *enough* welfare to pull people out of poverty, to claims that there is *too much* welfare for people to pull themselves out of poverty, thereby causing the ‘poverty trap’, where incentives to remain on welfare outweigh incentives to move into paid work. This refocusing of the issue shifts discussion away from historical, social and structural causes

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52 Bacchi 2009.

53 Bacchi and Eveline 2010, 112.

54 Bacchi 2017.

55 Pearson 2009; O’Connor 2001.



of poverty to the individual themselves, and leads to responses that focus on overcoming perceived individual deficits such as laziness, lack of skills and moral hazard.

The reframing of welfare in Australia has prompted increased calls for the ‘activation’ of welfare recipients by engaging them in welfare-to-work or ‘workfare’ programs. Since the late 1980s and early 1990s, a series of reforms to the provision of unemployment support have resulted in an increased focus on ‘activating’ and upskilling the unemployed. This has involved, for example, the introduction of activation measures from 1986 (e.g. a requirement to register with the then Commonwealth Employment Service) and an ‘activity test’<sup>56</sup> in 1989 as a condition of social security payments.<sup>57</sup> Since then, active participation requirements have continued to be strengthened through a range of incremental reforms to social security and employment services.

This relatively recent history sits in contrast to the approaches of past Australian governments, particularly between Federation and the Second World War, which moved towards a focus on the demand (rather than supply) side of the unemployment ‘equation’. In particular, historical policies primarily sought to boost the availability of jobs through mechanisms like job guarantees and full employment, and ensure suitable work conditions. Policies since the late 1980s have, instead, recast the unemployed as the core ‘problem’ and site of possible intervention. Australia’s current remote-employment program, the Community Development Program, provides one example of how this sort of framing can influence social policies and have significant implications for participants who are subject to strict and coercive program rules.

#### *Case example: Community Development Program*

The Community Development Program (CDP) currently operates in 60 remote regions across Australia, which include more than 1,000 separate communities.<sup>58</sup> The program supports ‘job seekers in remote Australia to build skills, address barriers to employment and contribute to their communities through a range of activities.’<sup>59</sup> According to the minister for indigenous affairs, Nigel Scullion, the program also aims to ‘put an end to sit-down welfare’ and transition unemployed, remote-living (mainly) Indigenous Australians into employment.<sup>60</sup> By July 2018, 32,000 individuals were participating in the program, about 80 per cent of whom identified as Indigenous.<sup>61</sup>

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56 This required recipients of unemployment benefits to undertake job-search and job-preparation activities.

57 Deeming 2016.

58 DPM&C 2018a.

59 SSCFPA 2017, 6.

60 Scullion 2014.

61 DPM&C 2018a.



Under the CDP, participants are required to attend frequent appointments with their service provider, actively look for jobs, and undertake up to 25 hours of work-for-the-dole activities per week. If participants do not comply with program rules, they can have their welfare income suspended until they re-engage.

The requirements under the CDP are more intensive and punitive than for unemployed persons living in urban parts of Australia who operate in the urban-equivalent program, JobActive.<sup>62</sup> At least partially as a result of this, substantially more financial penalties have been applied under the CDP than under JobActive (despite JobActive having over 20 times more participants) and also under previous remote programs.<sup>63</sup> However, noncompliance with CDP rules can result from a range of factors, including low English literacy (e.g. participants not being able to communicate with program staff, who rarely speak Indigenous languages), and cultural/family commitments.<sup>64</sup> For at least some participants, noncompliance may also result from poor health and wellbeing, which may not be properly assessed or for which participants may not be able to provide adequate supporting documentation, due to poor access to medical facilities in remote communities.<sup>65</sup> Nevertheless, the high rate of financial penalties under the CDP has led to reductions in income for some of Australia's most socially disadvantaged and poorest populations.<sup>66</sup>

The CDP seeks to address the perceived issue of welfare dependency by 'activating' and upskilling individuals, thereby implying that inactivity and poor skills are the causes of unemployment. However, there are obvious silences in this framing of the issue. For instance, remote economies where the CDP operates are generally very weak, with relatively few job opportunities available. Thus, the demand for jobs regularly outstrips supply, leading to entrenched high unemployment. However, this is not appropriately acknowledged in the design of the CDP. As Jordan and Altman argued, 'if one acknowledges the major structural barriers to employment opportunity, it is difficult to accept that withholding welfare payments unless recipients display the "correct" behaviours (judged according to mainstream Australian norms) will be sufficient to lead to a job'.<sup>67</sup>

The CDP also does very little to address other barriers to employment, including the multifaceted circumstances of disadvantage experienced by many CDP participants, like poorer health, standards of living, and access to basic social services. Much of this intergenerational disadvantage is the result of settler violence and racist colonial policies. Thus, withholding payments for noncompliance with the CDP punishes individuals for circumstances that are, in many cases, caused by broader socio-political and historical issues.

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62 Jordan 2016.

63 ANAO 2017; Fowkes 2016.

64 SSCFPA 2017; Staines 2018.

65 SSCFPA 2017.

66 Kral 2016.

67 Jordan and Altman 2016, 10.

At the same time as remote-employment policies are becoming more coercive, employment rates in remote Australia have remained largely stagnant and the gap between Indigenous and non-Indigenous employment in remote areas has widened.<sup>68</sup> Despite claims about the importance of evidence-based or informed policy, there is little to no robust evidence available on the public record which demonstrates that the CDP, or similar previous programs, have worked to improve employment outcomes for remote participants, especially those experiencing complex employment barriers.<sup>69</sup> This suggests that factors other than evidence are driving the design of social policies in this area, and indicates a need to reconsider the framing of the remote-employment policy ‘issue’.

### *Social policy as a behavioural tool*

Social policy can be used to enable and empower, but also to govern, coerce and control. Social policies inevitably embed normative assumptions about suitable or desirable ways of living and behaving, which can serve to restrain each individual’s power over their own lives and identities. They can also explicitly contain behavioural objectives, seeking to influence the ways that social policy ‘subjects’ view and interact with the world, including through behavioural economics and ‘nudge’ interventions.<sup>70</sup> For instance, social policies often seek to influence how individuals address their health, spend their time, grow their wealth, and more.<sup>71</sup>

Thaler and Sunstein discuss ‘nudge’ interventions as being grounded in a libertarian-paternalist framework, which recognises the critical importance of personal liberty, but which also acknowledges the potential benefits of ‘soft’ paternalism in influencing behaviour without restraining individual choice. ‘Choice architects’ – those responsible for devising nudge interventions – seek to subtly manipulate the context within which choices are made so as to encourage, but not to *require*, certain choices over others. Thaler and Sunstein provide the example of placing fruit at eye-level in school cafeterias to encourage students to choose healthy food options. While this policy does not restrain their ability to choose other options, it nevertheless subtly influences the likelihood that their choices will be healthier than if the fruit was placed elsewhere.

At the other end of the scale are policies driven by hard paternalism. These policies tend to limit individual freedom and choice, instead coercing individuals to conform to particular standards of behaviour or ways of being. Extending Thaler and Sunstein’s example, a hard paternalist approach to improving school students’ diets might involve regulating the food options available in school cafeterias to exclude unhealthy foods, thereby restricting choice and removing individual discretion.

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68 DPM&C 2018d; Venn and Biddle 2018.

69 Staines 2018.

70 Thaler and Sunstein 2009.

71 Deeming 2016.

Over the past decade, there has been an intensified interest in translating behavioural economics theory into public policy development.<sup>72</sup> Bonoli has referred to this as the ‘active social policy paradigm’: one in which governments routinely use social policy instruments to pursue the health and wellbeing of their populations.<sup>73</sup> In Australia, the Department of the Prime Minister and Cabinet now has a dedicated behavioural economics team, ‘BETA’, established to enhance the ability of the Australian public service to, among other things, ‘apply behavioural insights to public policy and administration’.<sup>74</sup> The team has worked on a range of policy projects to date, including in relation to tax compliance, influencing consumers’ energy choices, and ensuring compliance with labour laws.<sup>75</sup> Though there are arguments for and against the use of behavioural economics, behavioural objectives are apparent in a range of social policies in Australia. Income management (discussed in the below case study) provides one example.

*Case example: income management in Australia*

Compulsory income management involves ‘quarantining’ proportions of an individual’s welfare income and diverting the quarantined amount to a ‘BasicsCard’, a type of debit card where funds cannot be converted to cash, nor used to purchase certain items that are deemed (by the state) to be morally hazardous, including alcohol, tobacco, pornography and/or gambling services.

Having been first introduced in 2007 under the Northern Territory Emergency Response, income management now operates in discrete jurisdictions across Australia, including across the NT, and in parts of Western Australia (WA), Queensland, New South Wales (NSW), South Australia and Victoria. By March 2018, there were around 25,270 participants across Australia (though this excludes participants in the areas added since this time).<sup>76</sup>

These schemes operate differently, quarantining between 50 and 80 per cent of an individual’s welfare income, and taking different approaches to the administration of income management. For example, individuals who live in Bankstown (NSW) can have 50 per cent of their welfare income managed for at least 12 months if they are referred by a social or child protection worker, are less than 25 years of age and considered to be a ‘vulnerable welfare payment recipient’,<sup>77</sup> and/or if they volunteer.<sup>78</sup>

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<sup>72</sup> Oliver 2013.

<sup>73</sup> Bonoli 2013; Deeming 2016.

<sup>74</sup> DPM&C 2018b.

<sup>75</sup> DPM&C 2018b. See also DPM&C 2018c for case studies of BETA projects.

<sup>76</sup> DSS 2018.

<sup>77</sup> That is, if they are in receipt of certain categories of welfare, live within a specified income management area, experience financial hardship, fail to undertake ‘reasonable self-care’ and more.

<sup>78</sup> Australian Government 2018; DHS 2018.

Alternatively, income management under the Cape York Welfare Reform initiative<sup>79</sup> is delivered as one of multiple options (including referral to support services) available to the Family Responsibilities Commission: a statutory authority that undertakes restorative conferencing with welfare recipients who breach certain social triggers.<sup>80</sup> Conferencing is undertaken by Indigenous community Elders (sitting as 'local commissioners') and the decision about whether to apply income management, including what percentage and for how long, is also made by the Elders. This model was 'opted into' by the participating communities as part of the broader Cape York Welfare Reform initiative.

In Ceduna and the East Kimberley, trials of the cashless welfare card (a different form of income management) are ongoing, with recent trials implemented in the Goldfields and East Kimberley regions of WA, as well as the most recent trial being implemented in Bundaberg and Hervey Bay in Queensland from January 2019. Under the cashless welfare card, individuals are not referred. Instead, up to 80 per cent of an individual's welfare income is automatically redirected to a debit card, which can only be used to purchase approved items (i.e. not alcohol, gambling products or for withdrawing cash).

Although the models differ in their design and administration, they all involve behavioural objectives, which seek to coerce certain behaviours by restricting or removing individual choice over expenditure – a form of hard paternalism. In this way, welfare income is used as a lever for behavioural compliance with selected social norms. Welfare conditionality of this nature is also supported by broader discourses around welfare dependency and, thus, it is hoped that by increasing conditionality, individuals will ultimately be incentivised away from long spells on welfare.

This social policy focus raises challenging questions around the roles of different players in social policy design and implementation. For instance, income management in all areas (aside from Cape York) has been conceived of and designed by the Commonwealth government. However, it co-opts state-level bureaucracy in its implementation by requiring child safety workers, for instance, to make client referrals to the scheme. Its operation therefore depends on the co-operation and compliance of state government level public servants. The case study of compulsory income management, like so many social policy examples illustrates the complexity of federalism, particularly the degree to which co-operative or competitive federalism is at play in the design and delivery of social policies.

The Cape York trial, which has been ongoing since 2008 and was designed and implemented through a partnership between four Indigenous communities (with a fifth community added later on), an Indigenous not-for-profit organisation, and the Queensland and Commonwealth governments, also raises questions around

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79 This initiative has been implemented in the Far-North Queensland communities of Aurukun, Coen, Hope Vale, Mossman Gorge and most recently Doomadgee.

80 For example, not sending children to school or being convicted of a crime.

clashes between Indigenous self-determination and hard paternalism. Design and governance of the trial has empowered some Indigenous groups and communities in the policy-making process, while other voices have been marginalised. Nevertheless, this case study presents a conundrum for libertarians: to what extent can or should Indigenous 'communities' (however defined) be free to choose and design social policy for themselves, even if these social policies are paternalistic?

## Conclusions

Social policy is a way of describing the actions and configuration of governments, the family, markets and civil society in meeting the wellbeing of citizens and residents. The formal and informal rules and regulations governing access to goods and services create forms of inclusion and sites of exclusion. Invariably, the design and implementation of social policies reflects and embeds value judgements about the good life and the good society. As discussed throughout this chapter, the means and ends of social policy are often controversial and highly contested. Political debates frequently revolve around the overall size of the welfare funding envelope, the shape of the welfare system, the forms of delivery and the identities of 'deserving' and 'undeserving' beneficiaries. Although Australia has a long history of welfare conditionality, there has been an intensification of this in recent decades. This has coincided with changing discourses around the role and impacts of welfare, including an increased focus on the perceived toxic impacts of long-term 'welfare dependency'. Where welfare was once viewed as an acceptable safety net or fallback measure for alleviating poverty, it is now regularly described as a core contributing factor to moral decay and decline.

The framing and reframing of welfare in Australian society has had, and continues to have, a direct influence on how social policies are constructed, implemented and monitored. Social policies themselves both reflect and are active in the construction of these dominant narratives. They can be used as tools to unite, enable and empower, but also to divide, govern and coerce. The history and case studies contained in this chapter provide examples of this variability. Debates around these aspects of social policy will likely continue into the future, as Australia rapidly defines and redefines its national identity in both domestic and international contexts. Being alert to the changing contexts within which social policy is discussed, designed and implemented is an important first step in being able to deconstruct and question social policy objectives – critical factors in ensuring robust democratic debate among students and scholars of social policy, but also among practitioners, beneficiaries and the wider public.

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# Urban policy

Madeleine Pill and Dallas Rogers

## Key terms/names

economic growth, equity, fragmented governance, gentrification, global city, growth coalition, metropolitan region, right to the city, social reproduction, socio-spatial inequalities, spatial mismatch, strategic planning, urban governance, urban regime, vertical fiscal imbalance

As urbanists from around the world often remind us, about 55 per cent of the world's population lives in cities. By 2030, that figure is likely to be over 60 per cent.<sup>1</sup> Cities, therefore, will be increasingly important sites for managing the prosperity of the world's population. Since colonisation, Australia has had a strong urban focus. This is partly the result of the physical geography of the continent, with a rugged desert core surrounded by sections of agriculturally productive coastline. For example, a little over 5 million people live in Sydney – Australia's first city – which is about 20 per cent of the nation's population. But this is likely to grow by one and a half million people over the next 20 to 30 years. While each Australian state faces its own growth challenges, four common themes are emerging in every city: How and where will we house everyone? How will we source enough food and water for the city? Where will people work? And how will we move everyone into and out of – and around – the city? In short, the four big and interrelated urban

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1 United Nations 2015.

policy challenges that confront Australian cities are *housing, jobs, food security* and *transport*. A key task of urban policy is to build a network that allows different people, sectors and organisations to work together, across their differences, to plan and build a better city for every citizen. This raises critical questions about what a city is and who a city is for.

This challenge is complicated by the urban policy domain itself, which is shaped by the constitutional and statutory arrangements between federal, state/territory and local governments in Australia. These arrangements determine how ‘the state’ (federal, state and local governments and their agencies) intervenes in ‘the urban’, as an arena for the formulation, implementation and contestation of policies. The development and realisation of effective urban policy is further challenged by the complexities of urban governance and the messiness of urban space.

Urban governance is the process through which a city is governed. It involves different government agencies at different levels with diverse interests and responsibilities in relation to the urban arena, which they may pursue (such as major infrastructure provision) or disregard (such as ensuring access to safe, secure affordable housing). It also involves other, non-governmental actors and interests in the private and third (non-profit or community) sectors. Urban policy is therefore characterised by the ‘search for co-ordination’<sup>2</sup> as the policy challenges cities face are cross-cutting and multi-level and require multi-agency, cross-sector responses. Policy co-ordination across the government portfolios of transport, infrastructure, environment, housing, finance, education, health and social services would be required to build a ‘multi-dimensional policy perspective’ on cities.<sup>3</sup>

The urban space of cities is also complex. In terms of politics and public policy, we need to know who is responsible for what (where infrastructure is provided and services delivered) and who has a say (who is involved in policy formulation and delivery, who gets to vote). But this is complicated too. For example, urban regions might comprise more than one local government area, so it makes sense that public service provision, such as public transport, is co-ordinated at a higher level to ensure there is a transport network that serves residents who live in one local government area, work in another and use services or access amenities like public open space in a third. In Australia, there is a renewed focus on long-term metropolitan planning, with periodic discussion of a national, federal government-driven urban agenda. But Australia does not have an elected metropolitan (between local and state) level of government responsible for planning and co-ordination of its urban regions. In turn, we know that people’s strongest attachments tend to be to local places, rather than urban regions. Furthermore, while some policies explicitly target ‘the urban’ in terms of the place or the people who live there, many policies that are not urban-targeted have urban effects. Finally, cities are part of wider, often

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2 Cochrane 2007.

3 Dodson 2015.

global, socio-economic processes and flows of people, finance, goods and services. Policy makers can seek to resist the effects of or capture the benefits of these flows.

In this chapter, we first establish why urban policy matters and then consider the major theories that help us to understand urban policy. We then examine how urban policy has evolved in Australia, particularly in relation to changing federal emphasis on a national urban policy and in terms of the strategic planning and governance arrangements for the metropolitan regions of the capital cities, in which the vast majority of Australians live.

#### Urban policy matters in an urban society

Australia is a majority urban society. Over two-thirds of the population live in the metropolitan regions of the state and territory capital cities (Table 1). Increases in Melbourne, Sydney and Brisbane accounted for 70 per cent of Australia's population growth in 2016–17. These patterns reflect both the concentration of economic opportunities and growth in urban areas and Australia's unique urban system, the pattern for which was set during European settlement, when the majority of each colony's population was concentrated in its capital city. During the 20th century, the capitals continued to claim an ever-increasing population share due to rapid suburban growth.<sup>4</sup> Australia's two largest cities, Sydney and Melbourne, now have global city<sup>5</sup> status, meaning they are significant nodes in international networks of economic, political and cultural exchanges.

Australia's urban concentration points to the policy challenges that affect the quality of life in cities, such as congestion and the need for better public transport, and gentrification and the need for greater housing availability and affordability. These problems affect different parts of urban areas in different ways, producing and reinforcing patterns of inequality across numerous domains, such as income, health and mobility. Many of these challenges can be characterised as spatial mismatches – for example, between where housing is affordable and where jobs are located. But there is also often a mismatch between the local scale – 'where people live' – and the realms and flows that affect residents (which may be global, national or metropolitan). These can range from the location decisions of globally operating corporations to national imperatives to sustain and grow economic productivity, or the need for co-ordination across local government areas that make up the metropolitan region about the availability and accessibility of housing, jobs and other services and amenities. Such policy challenges draw attention to strategic planning focused on mobility and land use (for housing, for employment, for open space) as a framework for and expression of urban policy.

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4 Gleeson and Steele 2012.

5 Sassen 1991.

**Table 1 Resident population of Greater Capital City Statistical Areas (GCCSAs),<sup>6</sup> June 2017**

|                                     | <b>GCCSA total</b> | <b>State total</b> | <b>% of state total</b> |
|-------------------------------------|--------------------|--------------------|-------------------------|
| NSW: Greater Sydney                 | 5,131,326          | 7,861,068          | 65                      |
| Vic: Greater Melbourne              | 4,850,740          | 6,323,606          | 77                      |
| Qld: Greater Brisbane               | 2,408,223          | 4,928,457          | 49                      |
| SA: Greater Adelaide                | 1,333,927          | 1,723,548          | 77                      |
| WA: Greater Perth                   | 2,043,138          | 2,580,354          | 79                      |
| Tas: Greater Hobart                 | 226,884            | 520,877            | 44                      |
| NT: Greater Darwin                  | 146,612            | 246,105            | 60                      |
| ACT                                 | 410,301            | 410,301            | 100                     |
| <b>TOTAL Greater Capital Cities</b> | <b>16,551,151</b>  | <b>24,598,933</b>  | <b>67</b>               |

Source: ABS 2018.

Urban policy matters because most people live in urban areas, and the policy challenges we experience in these areas affect our quality of life. This gives rise to questions about the extent to which urban policy tackles these challenges. Some argue that urban policy is part of the problem, prioritising private investment activities over efforts to tackle socio-spatial inequalities and create a more equitable or just city. Others contend that private activities, assisted by state intervention, ultimately create more opportunities for all.

Urban policy is politics

Urban policy lacks a singular definition. Its defining feature is state intervention in the urban.<sup>7</sup> While mainstream accounts regard such state intervention as a technical

<sup>6</sup> GCCSAs are geographical areas delimited to represent the functional extent of each of the eight state and territory capital cities. The functional extent is defined using travel to work data from the 2011 Census as a proxy for the labour market of each capital city, its bounds containing the majority of the commuting population. This definition includes the population within the built-up urban area of the city, as well as people who regularly socialise, shop or work within the city and live in small towns and rural areas surrounding the city.

<sup>7</sup> Edwards and Imrie 2015.

process of making and implementing plans, or as part of an administrative, managerial function of government, a critical approach to urban policy entails understanding that (as with all forms of state intervention) it is inherently political. Policy, planning and governance arrangements for the urban reflect political contestation and conflict between actors and interest groups with different levels of power and different stakes in the city. These actors and interest groups, comprising the federal, state and local levels of government, corporate interests and landowners, as well as social movements, residents and community-based organisations, shape urban policy.

Urban policy requires understanding of the underlying rationales for state interventions and how these are contested by different interests seeking to assert their vision for a city and to create and implement policy agendas guided by this vision. In other words, while urban policy is characterised by policy objectives that purportedly seek to enhance the quality of life of those living in cities, it propagates specific values and visions for the city. In turn, the social construction of 'the urban problem' that policy makers are trying to address has implications for what policies are developed and implemented. Two kinds of challenges remain constant: enabling the social reproduction of urban residents (the ability to reproduce the means for people to live) and managing growth (including planning, land use and redevelopment). Much debate occurs around what should be the overriding priority of urban policy: equity (social redistribution) or efficiency (economic growth).<sup>8</sup> Equity goals suggest that everyone ought to be provided with equal opportunity to access jobs, goods, services and amenities. Efficiency goals justify urban policies that support urban economies by making the best use of land and infrastructure to enhance productivity and wealth creation.

From 1945 until the late 1970s, equity concerns shaped policy in many Western countries, with high levels of state intervention in the economy and society, including provision of public housing, education, transport and infrastructure, along with redistributive income support programs. But since the late 1970s, urban policy has been primarily influenced by efficiency criteria, with a shift towards the pursuit of private-sector-led strategies of wealth creation, or what David Harvey<sup>9</sup> terms urban entrepreneurialism. Thus political commitment has shifted from government investment in public infrastructure and public control of significant assets to the sale of assets and their control and management by quasi-governmental and private-sector agencies as well as the outsourcing of service delivery to private or third-sector providers. What some term a neoliberal political agenda, which aligns with the practices of new public management, has promoted policies of privatisation, fee-based services and a general rollback of government's social welfare function. For example, in terms of major urban redevelopment of former industrial areas, a common approach is the creation of special purpose districts managed by arms-

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8 Edwards and Imrie 2015.

9 Harvey 1989.

length state agencies, which distance major projects from local accountability. The influence of international examples such as the redevelopment of Baltimore's Inner Harbor in the USA and London's Docklands in the UK are evident in Australia. In Sydney, the redevelopment of Darling Harbour was overseen by a development authority established in 1984, and the current central city waterfront redevelopment is being led by a New South Wales (NSW) state agency, the Barangaroo Delivery Authority, created in 2009.

### *Theories of urban policy*

The ongoing tension between equity and efficiency goals is fundamental to debates about urban politics and policy. Two broad theoretical positions aid understanding. The first focuses on the role of cities in processes of social reproduction, and the second emphasises cities' role in processes of production or in realising profits from property development.

Neo-Marxist debates of the 1970s stressed the role of cities in social reproduction and collective consumption, or the delivery of services and goods – including those which are or can be collectively consumed, such as transport, education, health care and housing – by the state to support the reproduction of labour power. Politics stems from the struggle between those propagating profit-seeking and those favouring welfare via state support for collective good provision. For Manuel Castells,<sup>10</sup> the lives of many poor people in urban society are shaped by crises of collective consumption, referring to the unaffordable nature of many goods and services necessary for their sustenance. Collectively consumed goods and services, such as public transport and policing, which involve the majority of households and especially wealthier groups able to mobilise and be heard, tend to generate more public awareness. In contrast, those allocated on the basis of need, such as public housing, and reliant on poorer groups' and their advocates' ability to mobilise and be heard, tend to figure lower on the political agenda.<sup>11</sup>

A second set of theories originating in the USA argues that the focus of urban politics is economic growth and the realisation of profit through land and property development. Growth coalition theory<sup>12</sup> sees policy as part of the exercise of elite power around economic growth objectives, with the city as 'growth machine'. Urban regime theory<sup>13</sup> refines this, arguing that power is fragmented and that regimes arise between local governments and private actors that need to combine power and resources to be able to devise and enact a policy agenda. These theories, which identify urban policy as a mechanism that seeks to promote economic growth and

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10 Castells 1978.

11 Cochrane 2007.

12 Logan and Molotch 1987.

13 Stone 1989.

boost urban competitiveness, are consistent with the shift towards a neoliberal political agenda.

*Globalising the city*

Another perspective on the shift from equity to efficiency goals is provided by considering policy as attempting to globalise cities by positioning them within global flows of people, finance, goods and services. Such understanding has been used to justify major investment and infrastructure projects, accompanied by place branding and marketing and the provision of incentives, including land and tax breaks, to attract major global investors. The changing urban economy, characterised by the proliferation of advanced services and knowledge-based industries, has resulted in bifurcation between highly skilled, well-paid professional work and low-paid, unstable, unskilled service jobs in those cities clamouring for or seeking to retain global city status, including Sydney and Melbourne. By the late 1990s, in such cities, house prices had already risen beyond the incomes of many people. Gentrification, or the process by which urban neighbourhoods, usually the home of low-income residents, become the focus of reinvestment and (re)settlement by higher-income residents, is framed by some as urban renewal, but others see it as displacement of poorer, vulnerable city residents and a reduction in their opportunities to gain access to good quality urban areas.<sup>14</sup> Rising house prices and rents also attract property speculation, which fuels further inflation. In turn, 'the urban problem' has been socially constructed as one of poor city residents lacking the skills to compete in job markets and generate the means to look after themselves – a justification for cutting social welfare provision by promoting the moral imperative of self-improvement. Others critique this construction as a form of social pathology, where people are blamed for their problems, rather than relating these to inequities resulting from global processes, compounded by state withdrawal of social welfare. In contrast, the public goods and services consumed by the wealthier are rarely framed as welfare benefits.<sup>15</sup> For example, both public housing for those in need and negative gearing tax concessions for the wealthy are benefits, but the ways in which these are socially constructed indicates the dominance of efficiency goals given public subsidy to encourage profit-making from private property ownership.<sup>16</sup>

Certainly the city needs to be considered as part of wider processes. Flows (such as of investment and people), intervention by higher levels of government (targeted at urban areas or not) or international policy transfer shape what goes on within urban areas. But the urban remains distinctive as a political realm, with its everyday struggles about public services, housing and infrastructure, along with conflicts

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14 Lees 2003.

15 Cochrane 2007.

16 Holden 2018.



about urban renewal and redevelopment. These struggles focus attention on the planning and governance of cities and on the scope for more equitable alternatives that resist the increasing intrusion of private interests into the urban public realm.

### *Existing urban policy*

These theoretical accounts of the shift in the state's role, from helping to secure social reproduction to assisting in capital accumulation, highlight key aspects of today's existing urban policy, under which economic success, rather than the existence of an extensive welfare state, tends to be framed as the necessary precondition for the wellbeing (or welfare) of citizens. Urban policy now seems predominantly shaped by the pursuit of economic growth, and land and property development as a means to boost profits and wealth creation. These objectives follow the logic promoted in political rhetoric that people's wellbeing is best secured by disciplining individuals into accepting the efficacy of the market, from which they will benefit due to the 'trickle down' of growth.

For some, this understanding constitutes the basis of normative policy making, the 'new conventional wisdom',<sup>17</sup> which, due to rapid policy transfer, has been applied globally. For others, it forms the basis of a critique of urban policy visions and values that do not represent or respond to the needs of the many. This leads to questions regarding the right to the city:<sup>18</sup> who is the city for, and what is the role of policy in facilitating people's access to, and uses of, the goods, services and spaces of the city? Critical urbanists boil this down to the core question of whether urban policy (and indeed the city) is for people or for profit.<sup>19</sup> They argue that people's inhabitation of the city, rather than access to money, should form the basis for holding the right to remake and remain in the city. These scholars stress that there are progressive possibilities within urban policy, in terms of the locally specific and flexible ways in which policies can be implemented and in terms of the scope for development of alternative visions for the city that may lead to more equitable urban policy goals and outcomes.

At what level of government?

In Australia, urban policy is further complicated by a federal system of government that has tended to overlook the significance of cities and metropolitan regions, which, as 'orphans of public policy',<sup>20</sup> are 'caught between the three tiers of Australian government, hardly registering on the agenda of many politicians'.<sup>21</sup>

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17 Gordon and Buck 2005, 1.

18 Lefebvre 1996.

19 See, for example, Brenner, Marcuse and Mayer 2009.

20 Harley 2014.

21 Kelly and Donegan 2015, 3.

Although Australia is a vastly urban nation, attempts by the federal government to articulate a national urban policy have been episodic. Urban planning is a key tool in the urban policy toolkit. The intra-governmental arrangements around urban planning are therefore important. In this context, it is important to note that: 1) local government is not referred to in the Constitution of the Australian Commonwealth – local governments' responsibility for managing regulatory planning at the local level is deferred from the states/territories; 2) in the absence of a national urban policy, the federal government does not have any direct political oversight over urban planning at the state/territory level; but 3) the federal government may provide funding to the states/territories for large-scale infrastructure in cities, either as block funding or through one-off arrangements (such as City Deals, below). Therefore, the states/territories are powerful actors in urban and regional planning in Australia, but urban policy and infrastructure funding tensions are present between the federal government and the states/territories.

#### *National urban policy*

Globally, interest in formulating national urban policy peaked in the 1970s, with high levels of government intervention aimed at realising equity goals through provision of public housing and other public goods. The highpoint in Australia was the Whitlam government's (1972–75) urban and housing development initiatives, which focused on the rapidly growing suburbs. During the 1972 election campaign, Gough Whitlam famously explained that:

a national government which cuts itself off from responsibility for the nation's cities is cutting itself off from the nation's real life. A national government which has nothing to say about cities has nothing relevant or enduring to say about the nation or the nation's future.<sup>22</sup>

Following the shift to efficiency goals, the most notable federal interest in cities was expressed in the Hawke–Keating government's 'Building Better Cities' program (1991–96), which focused on the renewal of former industrial sites in the inner city to provide higher density housing (in Pyrmont and Ultimo in inner Sydney, inner Melbourne and inner north-eastern Brisbane) as well as the redevelopment of mainly government-owned land in East Perth.

However, more recently, cities have crept back up the national policy agenda, reflecting growing understanding of their role as the underpinning drivers for national economies. In 2011, the Rudd–Gillard government launched a national urban policy, 'Our Cities, Our Future',<sup>23</sup> which sought to guide public intervention and private investment around four themes that remain widely deployed in

<sup>22</sup> Whitlam 1972.

<sup>23</sup> Australian Government Department of Infrastructure and Transport 2011.

metropolitan strategic planning rhetoric: productivity, sustainability, liveability and governance. In 2016, the Liberal–National Coalition government launched the ‘Smart Cities’ plan with the ambition to ‘rethink the way our cities are planned, built and managed.’<sup>24</sup> The plan, not a substantive policy document, reflects internationally shared (and poorly defined) ‘common sense’ tenets that productive cities are smart, innovative, connected and liveable. In the same year, the government announced the Australian Infrastructure Plan, asserting that ‘the Australian government should drive change in the planning and operation of Australia’s cities.’<sup>25</sup> Federal commitments comprise funding for infrastructure planning and provision and seeking partnerships with state and territory governments via City Deals, which are ‘bespoke’ place-based funding agreements presented as boosting urban productivity while enabling the ‘value capture’ of enhanced tax revenue from development. The deals are described as ‘driv[ing] national priorities tailored to local needs.’<sup>26</sup>

Questions arise about the federal government’s engagement in matters that are generally regarded as the states’ prerogative – metropolitan strategic planning and infrastructure investment. The resurgence of national urban policy in Australia contrasts with the approach in other Western countries, where intergovernmental decentralisation is leading to the creation of institutions at the metropolitan level, justified on the basis of enhancing metropolitan regions’ global competitiveness while increasing democratic accountability. In the UK, where the City Deals approach originated, the funding agreements are ‘devolution deals’ premised on the creation of metropolitan governments that include representatives of constituent local governments and a directly elected ‘metro mayor.’<sup>27</sup> Australian conceptions of national urban policy do not envisage representative, revenue-generating metropolitan governments, perceived as a threat to state and federal power and influence.

Australia’s exceptionalism can be related to its extreme vertical fiscal imbalance.<sup>28</sup> This imbalance is based on which level of government has the power to make decisions about public spending and taxation. Australia is atypical, given the power of the federal level in collecting most taxation revenue before making transfers to the states and territories in the form of general and tied grants. The states/territories can levy limited taxes but derive nearly half their revenue from federal grants.<sup>29</sup> This imbalance enables the federal government to assert power over planning for and infrastructure investment in cities, when it chooses to do so. Major road projects such as the East West Link in Melbourne, Perth’s Roe 8 highway extension and Sydney’s WestConnex have been highly contested but exemplify the influence of funded federal priorities on state priorities. The projects are insulated

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24 Department of the Prime Minister and Cabinet 2016, 4.

25 Infrastructure Australia 2016, 175.

26 Department of the Prime Minister and Cabinet 2016, 5.

27 Sandford 2018.

28 OECD 2016.

29 Galligan 2014.

from local accountability as they are managed by public–private partnerships that operate like private corporations but are authorised to use public funds to leverage private investment. For example, WestConnex is managed by the Sydney Motorway Corporation, a private company established by NSW government in 2014.

This poses questions about what level of government is best placed to resolve contested urban policy challenges, how projects are funded and which urban actors should be involved. Some argue that urban policy should locate responsibility and funding for urban initiatives in the level of government where they are most effectively addressed; urban scholars often conclude that this will be at the level of metropolitan regions. In Sydney, bodies such as the Greater Sydney Commission evidence the state government’s commitment to metropolitan city governance (but not government).

#### *Metropolitan planning and governance*

Currently, state and territory governments have responsibility for creating strategic plans for Australia’s metropolitan regions. Strategic planning at a metropolitan level is a framework for and expression of urban policy. As such, it is highly political and is subject to a great deal of contestation – such as debates over whether new developments should replace farmland on the urban fringe, the provision and location of public and social housing, and the gentrification of neighbourhoods and displacement of poorer residents.<sup>30</sup> Recent and ongoing struggles in inner Sydney provide pertinent examples, such as the private transport-led redevelopment of government-owned land and public housing in Waterloo and the sale of public housing in Miller’s Point.

Metropolitan planning for Australia’s capital city regions is longstanding but is increasingly subject to debates about whether it can meet the challenges posed. Reflecting the shift from equity to efficiency goals, market-driven development has led to rising socio-spatial inequality since the 1980s. In Sydney, the term ‘latte line’<sup>31</sup> has been used to describe the divide between the well-connected, affluent and skilled jobs-rich inner suburbs and the poorly connected, highly car dependent outer suburbs, which lack employment opportunities. In turn, the phrase ‘new urban divide’ was coined to describe the spatial mismatches that strategic planning seeks to address:

The housing market and transport systems in Australian cities [are] creating an increasing divide between people and jobs, forcing people into trade-offs between financial security and family time, and making social connection much harder.<sup>32</sup>

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30 Howe, Nichols and Davison 2014.

31 Saulwick 2016.

32 Kelly and Donegan 2015, 76.

Metropolitan plans tend to share a commitment to urban consolidation, seeking compact cities by restricting new land released for development on the urban fringe and implementing plans for densification within the existing built environment, based around centres providing jobs and services and corridors of public transport. High-rise apartments are increasingly evident in the inner city. But metropolitan plans have generally failed to provide affordable housing. Plans do not meet their goals of higher public transport use due to inadequate investment in infrastructure. Where public transport use has increased, this has mostly involved radial journeys to the CBD or within the better-served inner suburbs. Employment in middle and outer suburbs remains sparse. Poor access to job opportunities in these areas has generally added to labour market inequalities.<sup>33</sup> Clive Forster describes:

the existence of parallel urban universes: one occupied by metropolitan planning authorities and their containment-consolidation-centres consensus; the other by the realities of the increasingly complex, dispersed, residentially differentiated suburban metropolitan areas most Australians live in.<sup>34</sup>

Reasons cited for the relative failure of metropolitan plans relate to their frequent revision due to changes in state government, leading to a lack of policy certainty and consistency. The process is also often captive to private property, infrastructure and financial interests. Strong representation from the property industry has led to the perception of urban consolidation policies as raising land and housing costs, to the detriment of housing affordability, which encourages release of new land for development on the urban fringe.<sup>35</sup> Calls for the deregulation of planning to 'streamline' the system are also common,<sup>36</sup> heightening concerns about the downgrading of planning as a profession with 'a weakening of the influence of planning agencies in shaping metropolitan policy'.<sup>37</sup> This is combined with the lack of accountability in privately financed infrastructure schemes, such as road tunnels in Sydney.<sup>38</sup> Though the need for more affordable housing is recognised in policy debates, policy change has not occurred to redress inequalities. In considering why this is the case, Nicole Gurran and Peter Phibbs conclude that the 'busy work' of policy discussion and review acts to defer any substantial change. They describe this as an 'expedient strategy for politicians beholden to home-owning electorates, industry sponsors, or ideological interests'.<sup>39</sup> It is also a ready tactic to shift blame to another level of government.<sup>40</sup>

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33 Hamnett and Freestone 2017.

34 Forster 2006, 180.

35 Bunker 2015.

36 Ruming and Gurran 2014.

37 Dodson 2009, 110.

38 Haughton and McManus 2012.

39 Gurran and Phibbs 2015, 718.

40 Milligan and Tiernan 2012.

Here, it is useful to return to our consideration of the underpinning rationales for state interventions in shaping urban economy and society. Metropolitan strategies are an expression of urban policy and thus of urban politics. As such, the strategies underline the shift from equity to efficiency and have made little progress towards rectifying the spatial mismatches and inequities described above. However, actually existing urban policy has an imperative (to an extent at least) to address the key underlying tension between equity and efficiency. For example, in considering strategic planning for the Sydney metropolitan region, Pauline McGuirk finds that though its planning broadly reflects a neoliberal commitment to furthering Sydney as a global city, redistributive compromises are necessary to achieve this. She describes strategic planning as ‘an institutional site of negotiation’<sup>41</sup> between demands for economic development and redistribution. Other forces that shape the urban realm, such as immigration policies and tax and finance policies like negative gearing, underline the urban impacts of federal policies not explicitly targeted at urban areas, which are not within the purview of metropolitan strategic planning.<sup>42</sup>

Much debate has occurred about how Australia’s metropolitan regions should be governed. The current complex and fragmented governance arrangements are perceived as lacking clear and effective institutional arrangements for strategic planning and the co-ordination of urban services, including infrastructure. Co-ordinating policy in a fragmented system of governance dilutes policy efficacy because it can be unclear who has responsibilities for the different elements of policy development, delivery and implementation. Advocates for metropolitan government see it as able to rectify the perceived democratic deficit which enables private interests to exert undue influence.<sup>43</sup> Government at this level is viewed as giving metropolitan regions a collective voice in debates about planning, resource allocation and major strategic issues, such as immigration, economic development and sustainability. Metropolitan governments are also perceived as being able to better tackle the perennial challenge of urban policy co-ordination – across government policy siloes and government levels (including local government areas) and between the public, private and third sectors. But the introduction of a fourth level of government in Australia would face considerable opposition from vested interests, including state and federal governments unwilling to cede power and responsibilities.

Greater Sydney, which has a population of 5.1 million and comprises 35 local government areas, and Greater Melbourne, which has a population of 4.9 million and 32 local government areas, are Australia’s two largest cities. Since 2015, metropolitan planning for Sydney has been the responsibility of an independent organisation created and funded by the NSW government, the Greater Sydney Commission. Greater Melbourne does not have an equivalent agency. The extent to which such a metropolitan planning commission comprises a step towards metro-

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41 McGuirk 2007, 184.

42 Tomlinson 2012.

43 Gleeson 2017.

politan government, with directly elected members or members elected by regional local governments, clear responsibilities (such as for public transport) and tax raising powers, remains to be seen.

## Conclusions

The key tension in thinking about cities – as ‘where people live’ or as ‘growth machines’ – plays out constantly in urban politics and urban policy. Urban policy is redefined accordingly, ‘combining its elements in different ways at different times and in different places’.<sup>44</sup> A key debate in Australia is around the level at which the state can best intervene to co-ordinate urban policy, but the debate tends to be dominated by conventional understandings of state intervention as technical and managerial rather than political, underlining the normative power of neoliberal ideologies in shaping public policy. Debates about citizens’ role in the processes of planning and governance seem subdued, perhaps because ‘many residents are unwilling to consider the possibility that cities could get better’.<sup>45</sup> However, cities are also sites of struggle over social justice and equity that may lead to rebalancing of priorities and redefining of policies.

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44 Cochrane 2007, 14.

45 Kelly and Donegan 2015, 3.



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# Work, employment and industrial relations policy

Susan Ressia, Shalene Werth and David Peetz

## Key terms/names

associational power, Australian Building and Construction Commission (ABCC), Australian workplace agreements, awards, bargaining representatives, centralised wage determination, conciliation and arbitration, employment relationship, gender pay gap, inequality, multi-lateral rule making, penalty rates, Prices and Incomes Accord, pluralist, safety net, union density, unitarist, universal paid parental leave

The employment relationship – that between employer and employee – is at the heart of capitalism and a core issue for public policy. Governments create rules, policies and institutions within which employees, their representatives, employers and their representatives, operate. The interest to governments when creating policy includes the form that bargaining takes, wage and employment levels, the nature and effects of contracting and the rights of workers – much of this boiling down to issues of power. In recent decades, major policy issues have included the federal Labor government's Prices and Incomes Accords in the 1980s and 1990s, the Coalition government's 'WorkChoices' legislation, the shift to enterprise bargaining, and developments in such areas as minimum wages and pay equity. In this chapter we outline the matters at stake, the players, the policy processes and some of the key issues.

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What's at stake?

Central to policy decisions is the political ideology of the decision maker, and the implications of that ideology for whose interests should prevail within the employment relationship. Put simply, is the priority for government the interests of business or the advancement of worker interests? Approaches to the management of labour may be described as being 'unitarist' or 'pluralist' and these concepts are manifested in policy and practice.

*The imprecision of the employment relationship – the heart of capitalism*

At the beginning of the employment relationship the worker agrees to sell their labour to the employer in the form of an ongoing market transaction. However, it is almost impossible for the contract of employment to specify everything that the employee does in their work. In the service sector, where measurement of employee output is harder, the imprecision of the employment relationship is especially high.

*The power of capital and labour*

The study of work and employment relations policy is also the study of power. The groups and individuals with power are those who benefit most from policy making. Public policy may also affect the power that various groups and individuals have.

The relative power of employers and unions at the workplace is not easy to measure. A pluralist approach 'accepts the rights of employers, employees and unions to bargain over their separate interests'.<sup>1</sup> It also recognises that the conflict that occurs in the workplace is to be expected and managed. In a capitalist economy, governments who wish to advance the interests of workers tend to create policy from a pluralist perspective. Governments, seeking to implement a policy that protects business interests, often adopt a unitarist perspective. This assumes that employers and employees have the same objectives and any conflict that might occur in the employment relationship is unusual. Unitarist policies often do not support the existence of an independent umpire to provide arbitration of workplace disputes. Conservative or 'right-wing' approaches of the state to industrial relations are often associated with unitarist conceptions of this field. There are other perspectives on employment relations (e.g. radical, Marxist, postmodern or feminist approaches)<sup>2</sup> but these are analytical perspectives, sometimes also held by workers, but not by employers and rarely by government.

Governments, regardless of whether they espouse a unitarist or pluralist perspective, claim to be interested in improved economic outcomes. This is an objective that can appeal to everyone, and productivity growth, for example, affects

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1 Alexander, Lewer and Gahan 2008, 22.

2 Peetz 2019.

the level of resources available to distribute to capital and labour. However, there is no agreement about how improved economic outcomes should be achieved, and this objective is often just a guise for realigning the balance of power in the workplace. Where policies, for example, support capital at the expense of labour, they are more likely to entrench inequality. With unions being formally tied to the Australian Labour Party (ALP), Coalition parties have long sought to discredit the ALP through reducing the credibility of unions. Indeed, the conflict between capital and labour is the core conflict within capitalism, so it should not surprise us that it is also central to political conflict in Australia, though usually it is not articulated this way.<sup>3</sup> It is, though, common to think of and depict people, interest groups or parties as being somewhere on a spectrum from 'left' (pro-labour) to 'right' (pro-capital). It is an idea that voters somehow manage to relate to in survey questions, and surveys over the past two decades using this measure have detected a gradual leftward shift, from the right towards the centre, in people's self-assessment of their political positioning.<sup>4</sup>

#### How the system works

Patterns of policy need not reflect patterns of public opinion. The ideology of people in positions of power, the organisational ability of interest groups and the nature of the institutional framework all shape the direction of policy and may do so contrary to directions in public opinion.

There are three parties (groups) with a particular interest in the employment relationship:

- employees and their representatives (commonly unions)
- employers and their representatives (employer associations)
- the state.

Each affects rule-making associated with the employment relationship.

#### *Unions*

The shape of the union movement today reflects how unions have developed over the past 100 years. The trade union movement enables workers to act collectively, to influence policy decisions affecting workplaces, and enables workplace negotiations on pay and conditions of work.

The focus of trade unions is on the needs of members. However, their involvement in decision making is not limited to the workplace level – it can also be seen in their involvement in the community and in political lobbying. The Australian

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<sup>3</sup> Peetz 2018.

<sup>4</sup> McAllister and Cameron 2014.

Council of Trade Unions (ACTU) has been the sole peak body for unions since the early 1980s, and it undertakes broad political and policy-based work as part of its activities. It has initiated various equal pay and other wage cases to the body now called the Fair Work Commission (FWC), and lobbied or negotiated with governments. Outcomes achieved over many years include ‘occupational health and safety laws, annual holidays legislation, superannuation, Medicare, the award system, penalty rates for overtime and weekend work, and workplace amenities.’<sup>5</sup>

Under conciliation and arbitration, union density (the share of employees who are members of a union) went from 6 per cent in 1901 to around 60 per cent by the early 1950s.<sup>6</sup> From the 1980s, union density declined (see Figure 1), beginning with structural changes in the economy that favoured industries and occupations with low density but were not met with effective union responses, such as organising in new areas.<sup>7</sup>

In the 1990s, unions began a process of large-scale amalgamations to capitalise on economies of scale, but union density continued to decrease in the face of attacks by employers and various state and national governments. With the move to enterprise bargaining, the focus of industrial relations shifted to the workplace, but this was a level at which unions were often weakly organised, after focusing for many years on advocacy in tribunals and action in a small number of ‘hot spots.’ By 2018 density was around 15 per cent and, with a delay, collective bargaining also declined.<sup>8</sup>

#### *Employers and employer associations*

Employers also form collective organisations. Employer associations are often regarded as the equivalent of unions for employers. Moreover, employers of most people are themselves corporations, which are collectives of capital. Thus, employer associations are industry-based collectives of collectives, formed to counter the associational power of unions.

The roles of employer associations vary, depending on the way they developed and the industry or region in which they traditionally operated. These roles have evolved through amalgamations, but have largely centred around the representation of political parties and developing responses to industry or national issues raised by unions. Their activities have changed as employment relations has become increasingly decentralised. They may provide services to their members to assist specifically with managing their employment relations issues.

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5 Balnave et al. 2009, 126.

6 Gahan, Pekarek and Nicholson 2018; Peetz and Bailey 2012.

7 Peetz and Bailey 2012, 529.

8 Gahan, Pekarek and Nicholson 2018.

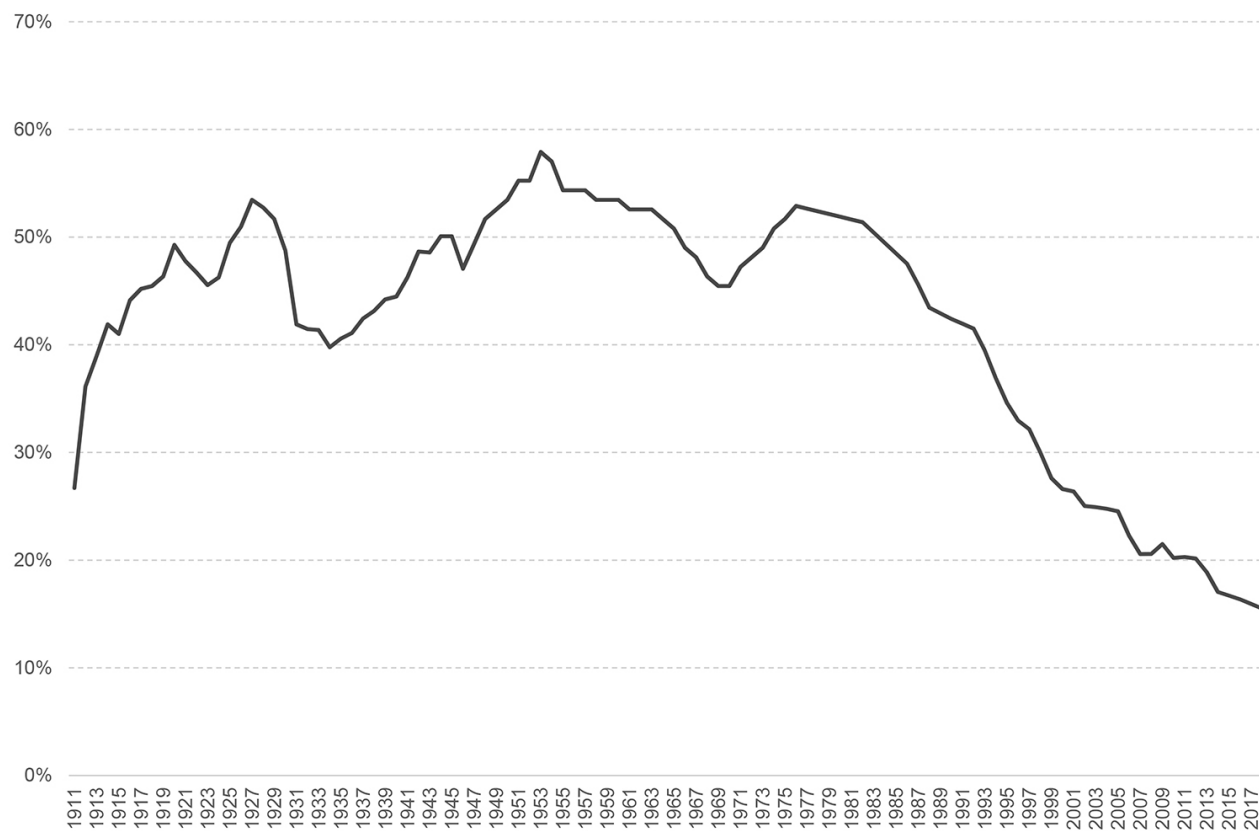


Figure 1 Union density. Source: ABS Cat. No. 6310.0, 6323.0, 6325.0, 6333.0.

*The state*

The term 'state' is used here to describe the various institutions used to regulate the employment relationship. These institutions include the legislature, executive and judiciary. The legislature consists of the parliament and is responsible for creating legislation. The judiciary interprets and applies legislation and can be responsible for ensuring that the executive and legislature act within the Constitution. The executive consists of the elected government as well as the various institutions that form part of the public bureaucracy.

The latter include the federal department responsible for employment relations (in 2019, Jobs and Small Business), the labour inspectorate (in 2019, called the Fair Work Ombudsman), Safe Work Australia, and the Australian Building and Construction Commission (ABCC). In addition, there are quasi-judicial bodies including the industrial tribunal (in 2019, called the Fair Work Commission), the Australian Human Rights Commission, and the Remuneration Tribunal.

The state's role has substantially varied over time. For most of the 20th century, Australian industrial relations operated within the conciliation and arbitration system. That system originated in the 1890s, before the nation was federated, in response to bitter and costly disputes in several industries. Unions had strongly, but unsuccessfully, resisted cuts to wages and conditions. Employers had been unwilling to participate in voluntary conciliation or arbitration, and bloodshed had occurred when employers, workers and law enforcement clashed.

By 1904, federal legislation was introduced to formally regulate and provide a system for the negotiation of workers' wages and conditions, and unions were recognised as registered entities. This centralised system of multilateral rule-making involved trade unions as representatives of workers, employer associations representing employers, and the industrial labour courts and tribunals. Federal and state governments did not directly determine labour standards at this time,<sup>9</sup> but they did regulate some internal affairs of unions and employer associations, as these were part of the system (some saw them as virtually an arm of the state<sup>10</sup>). Tribunal decisions around wages and conditions became binding, and the details were contained within instruments known as 'awards'.

The central agency, originally the Conciliation and Arbitration Court, was split in the 1950s into a court and a tribunal. The latter, the Australian Conciliation and Arbitration Commission (ACAC), became the Australian Industrial Relations Commission (AIRC) and then Fair Work Australia (subsequently the FWC). In the long run, the decisions of the tribunals, although often contested, appeared to be similar to outcomes that the market would have delivered, apart from a tendency to

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<sup>9</sup> McCallum 2011.

<sup>10</sup> For example, Howard 1977.

produce a more egalitarian distribution of earnings, which also included progress towards equal pay for women.<sup>11</sup>

At the parliamentary level, there are deep divisions between the major political parties. In some ways these parties are the political manifestation of capital and labour. The unions created the ALP, and still have a formal role in it, though there are often wide political gulfs between them. The Liberal Party was established in the 1940s in an attempt to reorganise the then non-Labor parties (i.e. the parties of capital) to better fight the ALP, then in government. Its creation was facilitated by the newly established Institute of Public Affairs.

#### *Elements determining pay and conditions*

The legal 'safety net' for employees – the minimum conditions which should govern their work – has several components: a minimum wage, National Employment Standards (NES) set out in the *Fair Work Act 2009* (Cth), and modern awards. On top of these sit, for a substantial minority of workers, enterprise agreements.

The minimum wage is set by the Fair Work Commission's Expert Panel, taking effect from 1 July each year. The National Employment Standards are required by law to be provided to all employees. The NES and minimum wage applies to all employees as a 'bottom floor' set of minimum conditions. The NES includes provisions regarding:

- maximum weekly hours
- requests for flexible working arrangements
- parental leave and related entitlements
- annual leave
- personal/carer's leave, compassionate leave, and family and domestic violence leave
- community service leave
- long-service leave
- public holidays
- notice of termination and redundancy pay
- provision of a fair work information statement to employees.<sup>12</sup>

Although seemingly detailed and prescriptive, there are loopholes in some of these provisions, so it is not as robust a list as it might initially appear. Employees who are employed under a modern award are entitled to minimum pay and other conditions outlined in the relevant award. Where an organisation has negotiated an enterprise agreement, pay and conditions for employees will be outlined in the enterprise agreement, which can be different to the award but should leave employees better off overall than if they were employed under the award. In

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<sup>11</sup> Peetz 2016a.

<sup>12</sup> Fair Work Ombudsman 2018a.



addition, employees and employers may negotiate an individual flexibility arrangement (IFA) that can be used to implement more flexible work practices, particularly on hours of work. An IFA, in theory, cannot be used to erode the minimum rights of employees. Again, the employee should be better off overall when compared to the modern award or enterprise agreement that the IFA varies.

Modern awards protect a number of entitlements and these can include:

- minimum wages
- types of employment (e.g. full-time, part-time or casual)
- overtime and penalty rates
- work arrangements (e.g. rostering or variations to working hours)
- annual wage or salary arrangements
- allowances (e.g. for employees required to clean their uniform)
- annual leave loading and arrangements for taking leave
- superannuation
- procedures for consultation, representation and dispute settlement.<sup>13</sup>

Most modern awards are based on a designated industry or an occupation within a group of industries of employment. A miscellaneous award attempts to cover all remaining workers. Any who might not be covered, however, are still entitled to the minimum wage and the NES.<sup>14</sup>

#### *The federal dimension*

Federal industrial legislation in the 20th century relied on varied parts of the Constitution. Principally, the conciliation and arbitration power in section 51(xxxv) of the Constitution was used to encourage the settlement of disputes through bargaining at the enterprise level. Residual powers rest with the states, so at times 30 to 40 per cent of Australian employees were under state awards. While, in 1993, the external affairs power (section 51(xxix)) was used to provide for redress against unfair dismissal and unequal remuneration between men and women, this was historically unusual. That year, the corporations power (section 51(xx)) was used to allow the negotiation of enterprise flexibility agreements between incorporated employers and groups of employees without any representation by trade unions or employer associations. This use was widened in 2005 to form the basis for the entirety of the Howard government's 'WorkChoices' legislation. The High Court validated this, and so responsibility for most industrial relations matters moved from the states to the federal government. To make this work, it was still necessary for the states to refer power on non-corporate employers to the federal government, which all states except Western Australia did. Most states retained the responsibility for their own employees (such as state employed teachers and nurses).

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<sup>13</sup> Fair Work Ombudsman 2018b, 4–5.

<sup>14</sup> Fair Work Ombudsman 2018b, 4–5.

After that time, much of the WorkChoices legislation was wound back (especially regarding dismissal and individual contracts), and the Fair Work Act that replaced it has itself been amended several times, albeit in mostly minor ways. Regardless, the federal government has largely maintained responsibility for industrial relations.

## Issues

We now turn to policy matters that have featured in political debates in recent Australian history. These include matters concerning wages policy, collectivism and individualism, union power and industrial conflict.

### *Wages policy, 'the Accord' and enterprise bargaining*

Through the first half of the 20th century, awards became central to setting pay and conditions. They provided a framework for employers to adhere to for rewarding employees with wages and conditions of employment in return for their work effort. The award system was seen as offering stability to the economy and perhaps restraining strike activity. The number of awards grew as they covered an increasing range of industries. The number of award conditions contained within awards also grew. Furthermore, the government sought to protect local industries and jobs through tariffs and quotas.

However, by the late 1970s to early 1980s, economic circumstances were complex and changing. Most countries were experiencing simultaneous high inflation and unemployment, following oil price rises driven by the Organization of the Petroleum Exporting Countries, and in Australia neither the Whitlam Labor government nor the conservative Fraser government had been able to effectively counter both, with their traditional demand-management policies.

In 1983, the ALP introduced the Prices and Incomes Accord, more commonly referred to as 'the Accord' that had been negotiated with the ACTU. It was a system of highly centralised wage determination and a means by which state intervention restructured the industrial relations system. The main logic was for labour to co-operate with the state to reduce both unemployment and inflation, through wage restraint (at or below inflation) supported by social expenditures such as the introduction of Medicare and tax cuts.<sup>15</sup> A secondary logic was for labour to co-operate with corporate management in finding ways of improving productivity at the workplace level. While productivity growth was quite high prior to the introduction of the Accord, it slowed substantially in the mid-1980s – firms had little incentive to engage in labour-saving technology once real wage costs were falling – and productivity and barriers to flexibility (discussed below) came to be

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15 Dabscheck 1989; Hancock 2016; Willis and Wilson 2000.

seen as the major problem with the industrial relations system. The Accord was renegotiated several times – initially, in response to wage pressures arising from a large depreciation of the Australian dollar in 1985 – and subsequent versions ('Marks') of the Accord placed increasing emphasis on localised cost offsets or productivity gains. The Accord's creation may have been the last time that national economic considerations fundamentally drove industrial relations policy.

By 1991, employers, unions and the Labor government had all decided, for varying reasons, to move away from centralised wage fixing, and this was reflected in Accord Mark V. In the April 1991 National Wage Case, the arguments of the parties for this move to 'enterprise bargaining' (EB) were rejected by the AIRC, but by October 1991 it reluctantly endorsed the move.<sup>16</sup> This was backed by 1992 legislation reducing the AIRC's capacity to reject certified agreements and by wholesale legislative changes in 1993 (the *Industrial Relations Reform Act 1993* [Cth]).<sup>17</sup> These formally established a right to strike in negotiation of a new enterprise bargaining agreement (EBA) – but nothing else – whereas previously, strikes had occurred in a legal grey zone with few restrictions. EBAs had to satisfy a 'no disadvantage' test, meaning workers on them should be no worse off than they would be under awards.

This emphasis on bargaining – where 'the institutionalised arrangements by which employers and employees determine the terms and conditions of the employment relationship'<sup>18</sup> – starkly contrasted the heavy state involvement (via the AIRC) in earlier times. In the ideal form, trade unions would bargain for pay increases and improvements in workplace conditions where profits were achieved through employees' efforts, and employers would bargain for further increases in productivity in return. Once agreement between all parties was reached, these EBAs would be made legally binding after approval by the AIRC. In practice, many saw this ideal as being constrained by employers focusing on cost reductions rather than productivity increases; the parties running out of ways to increase productivity through this mechanism; employers introducing productivity-enhancing measures outside the bargaining context; outcomes being determined by muscle, not merit; employers using the EB process to circumvent unions altogether; and subsequent changes to the EB law designed to favour the power of one side over the other.

With decreasing involvement in workplace matters, the role of the AIRC shifted to maintaining an appropriate safety net of minimum award wages and conditions. Changes in the safety net were meant to take account of inflationary pressures, the level of workforce participation and productivity growth, industrial action, broader social objectives and community expectations of fairness. Its first three safety net decisions in the early 1990s provided low increases (\$8 per week) in award wages in line with the Accord partners' interest in encouraging workers to

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16 Willis and Wilson 2000.

17 Pekarek et al. 2017.

18 Bray 2011, 19.

move to enterprise bargaining. After 1996, when the Coalition government came to office and the Accord ended, the parties made divergent submissions to these safety net cases – eventually, the government stopped nominating a specific amount altogether – and the AIRC varied in the extent to which its decisions implicitly endorsed one side’s submissions over the other’s.

Eventually, the idea of setting the safety net at a level low enough to encourage workers to move to enterprise bargaining lost salience, not least because a large gap quickly opened up in most industries between award rates and EBA rates, but it was often the resistance of employers, rather than employees, that held back the growth of EB. New developments in economic research cast heavy doubt on the previous consensus amongst economists that minimum wage increases would raise unemployment.<sup>19</sup> Despite the claimed focus on the low paid, the inherently difficult circumstances of people who relied on award wages at or near the minimum wage led unions to lodge ‘Living Wage’ claims, seeking a large increase in minimum and award wages to deal with the problems facing the low paid, albeit with little success. While increases in award minimum rates may presently be above growth in the Consumer Price Index,<sup>20</sup> wage growth overall in 2018 were historically at very low rates in Australia and overseas.<sup>21</sup>

#### *Pay equity*

The concept of equity is concerned with fairness, derived from social justice principles of equal rights and access to, and full participation in, society. The difference between high and low wage earners is one aspect of pay equity. While a minimum wage aims to provide some standard of living to safeguard against poverty,<sup>22</sup> other inequities may persist due to other historical, systemic and social factors. For example, the 1907 Harvester court decision set the male basic wage to support his wife and five children.<sup>23</sup> This social norm of the time viewed the male as the worker and the female as the homemaker. This has been seen as reflecting a breadwinner/homemaker model, and perpetuating gender discrimination, manifesting in the issue of the gender pay gap.

Even after explicit pay discrimination based on gender was ended by the ACAC, traditionally male forms of work such as manual and heavy work have attracted a higher value than female forms of work, which embodied ‘softer’ skills, in occupations like nursing or child care. Whitehouse and Rooney<sup>24</sup> highlight the undervaluation of work performed by women, and Baird<sup>25</sup> reinforces this view,

19 Card and Krueger 1995; Fair Work Commission 2017.

20 Oliver and Yu 2018.

21 Gahan, Pekarek and Nicholson 2018; Stewart, Stanford and Hardy 2018.

22 *Ex parte H.V. McKay* (1907) 2 CAR 1 (*Harvester*).

23 Brown 2011.

24 Whitehouse and Rooney 2011.

25 Baird 2016, 85.

citing that our industrial relations system has had an ‘uncomfortably ambivalent relationship’ to women, casting women as either ‘ungendered’ workers (or equivalent to the male worker ideal type), or the ‘other’ type of worker (encumbered with care responsibilities outside of work). While this undervaluation affects specific jobs, other systemic biases also damage a woman’s position. For example, a policy focusing on promotion linked to length of service may inadvertently discriminate against women, due to the taking of maternity leave.

Despite a range of state interventions toward providing pay equity, including a major Convention,<sup>26</sup> anti-discrimination and equal opportunity legislation, and various equal pay decisions by tribunals, the gender pay gap remains at around 14 per cent of male hourly earnings.<sup>27</sup> Pay inequality also extends to a range of vulnerable groups in the labour market who are denied access to good quality and well-paid work experience and less bargaining power, including Indigenous Australians,<sup>28</sup> people living with disabilities,<sup>29</sup> youth, and temporary and skilled migrant workers.<sup>30</sup> ‘Neoliberal’ policies outside employment relations appear to worsen this disadvantage, and increase poverty (especially when we compare different countries), with little or no consistent gain in terms of productivity.<sup>31</sup>

#### *Individualism and collectivism*

One of the key left–right differences in industrial relations policy is the emphasis on collectivism versus individualism. For example, statutorily providing for individual contracts, known as Australian Workplace Agreements (AWAs), was a focus of amendments to federal legislation of the Howard Coalition government, through the *Workplace Relations Act 1996 (Cth)*. Lack of control in the Senate saw a watering down of the Coalition’s original intentions.<sup>32</sup> However, this changed in 2005 when the Coalition gained control of the Senate and enacted the *Workplace Relations Amendment (WorkChoices) Act 2005 (Cth)*, more commonly known as the ‘WorkChoices’ legislation.

The powers of the AIRC were further limited. WorkChoices gave AWAs supremacy over EB agreements or awards, and moved the role of fixing minimum wages and casual loadings to the Australian Fair Pay Commission (AFPC). Only five minimum working conditions needed to be included in awards and AWAs. The ‘no disadvantage’ test was abolished.<sup>33</sup> AWAs frequently reduced penalty rates (wage premiums for anti-social working hours), overtime and shift allowances.

26 United Nations 1951.

27 Workplace Gender Equality Agency 2019.

28 Birch and Marshall 2018.

29 Werth 2015.

30 Campbell and Burgess 2018; Ressler, Strachan and Bailey 2017.

31 Peetz 2012.

32 McCallum 2011; Stewart 2016.

33 McCallum 2011; Stewart 2016.

Small and medium businesses (with less than 101 employees) became exempt from unfair dismissal laws, giving employers 'greater freedom over the terms of which they can hire and fire workers'.<sup>34</sup> There were publicised examples of people given a choice between a pay cut and losing their job.<sup>35</sup>

The issue was central to the 2007 federal election. The unions' 'Your Rights @ Work' (YRAW) campaign substantially helped the ALP return to power at the 2007 election.<sup>36</sup> The ALP subsequently reinstated unfair dismissal protections and phased out AWAs. Its *Fair Work Act 2009* re-established the integrity of awards, with some changes, in particular a reduction in their number and overlap and an increase in their ability to be varied at the workplace level by 'agreement' – hence the new term 'modern awards'.<sup>37</sup> It replaced the AIRC with Fair Work Australia (FWA) – it was, after all, the 'Fair Work Act' – and replaced or renamed several other Coalition-established institutions. However, not all aspects of WorkChoices were changed. Unions did not achieve full reinstatement of workplace entry rights.<sup>38</sup> In addition, industrial action by trade unions remained unlawful in many contexts, and requirements for a secret ballot were modified but largely retained. Good faith bargaining requirements were introduced for negotiating EB agreements (section 228 of the *Fair Work Act 2009*). The *Fair Work Act 2009* reintroduced a stronger version of the 'no disadvantage' test called the 'better off overall' test, or 'BOOT',<sup>39</sup> designed to ensure that a worker is better off overall under an agreement when compared to the equivalent industry award. The ten minimum NES conditions, discussed earlier in this chapter, must be satisfied. The ALP also initiated a process leading to the introduction of universal paid parental leave.

### *Flexibility and insecurity*

The basic architecture of the *Fair Work Act 2009* had, by 2019, changed little since its introduction, despite six years of Coalition government from 2013. The Coalition found it difficult to get radical changes through the Senate, and a broader agenda had been stymied since 2008, by the 2007 election result.

Nonetheless, pressures for change continued, because of the ongoing employer urge for flexibility since the Accord days. It was usually controversial because increased flexibility for employers would be mirrored in increased insecurity for employees. Over the period from 2013, matters affecting pay and conditions became controversial, because of actions of institutions promoting flexibility. The FWC in 2017 decided to reduce Sunday penalty rates in retail and hospitality, following employer submissions focusing on the need for greater flexibility in those industries and the employment opportunities it would allegedly create, a report by

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34 Stewart and Williams 2007, 33.

35 Peetz 2007.

36 Cooper 2016; Muir and Peetz 2010.

37 Bukarica and Dallas 2012; Stewart 2016.

38 Muir and Peetz 2010.

39 Bukarica and Dallas 2012; Cooper and Ellem 2011.

the Productivity Commission that made similar recommendations and statements from individual Coalition politicians favouring such a cut.<sup>40</sup>

The issue was particularly salient because of its impact on low-income workers and, implicitly, the potential for eventual flow-on to other workers. Soon, ‘insecurity’ became a major issue, with unions focusing on high rates of casualisation, labour hire, franchise employment, the use of ‘independent’ contractors, and continuing growth in underemployment, with academic attention focusing on several of these issues.<sup>41</sup> The emergence of changing business models and the growth of the ‘platform’ or ‘gig’ economy heightened focus on these issues.<sup>42</sup> As such, individual jurisdictions have introduced legislation aimed at specific issues such as labour hire or occupational health and safety.<sup>43</sup>

Another controversial institution was the Fair Work Ombudsman (FWO), charged with ensuring compliance with the system. Employers in a range of industries, but especially horticulture and hospitality, were found (often through media exposés) to be exploiting and underpaying workers (what the ACTU called ‘wage theft’), and the FWO was frequently criticised for inaction on these issues – in effect, for allowing employers too much flexibility in the determination of pay and conditions. In the context of extensive media coverage before the 2016 election, the Coalition foreshadowed, and eventually introduced, legislation making accessorial, franchisor and holding company employers liable for certain contraventions of workplace laws within related organisations.<sup>44</sup> The issue continued to have salience, especially for the most vulnerable workers (migrants on temporary visas), and in the lead-up to the 2019 election the Coalition government received a report from the migrant workers taskforce and promised to implement most of its recommendations.

### *Unions and industrial conflict*

Despite lower density, unions attract a lot of political attention. This is because they still wield considerable political mobilising ability (few other union movements would be able to claim the impact Australian unions’ 2007 YRAW campaign had on an election result), they are the largest organised part of civil society, and they are formally linked to the Coalition’s political enemy, the ALP. Their influence on Labor in government is much less now, however, with the relationship having shifted from one of being an ‘equal player’ during the Accord years, to that of an ‘interest group’ in political negotiations over the Fair Work Act.

After losing status during the WorkChoices years, unions are again recognised as bargaining representatives within collective bargaining processes, under the *Fair*

40 Kaine and Boersma 2018; Oliver and Yu 2018; Peetz 2016b.

41 Campbell and Burgess 2018, 51; Healy, Nicholson and Pekarek 2017.

42 Healy, Nicholson and Pekarek 2017; Lansbury 2018.

43 Rawling and Schofield-Georgeson 2018.

44 Barry and You 2018; Fair Work Ombudsman, n.d.; Rawling and Schofield-Georgeson 2018.



*Work Act 2009*,<sup>45</sup> but both union internal affairs and the undertaking of industrial conflict are regulated in extensive detail, especially by comparison with almost all other industrialised nations. Several of the procedures in place create intentional difficulties for unions (having been introduced under *WorkChoices* but subject only to minor changes by the *Fair Work Act*). Their relevance has sometimes only been made apparent through some important decisions by courts or the FWC. For example, one appears to make it easy for employers to terminate an agreement after its formal term expires (weakening the bargaining power of workers, whose pay and conditions can technically be reduced from the EB levels to award levels). Another makes it easy for employers to obtain termination of otherwise legal industrial action if it is inconveniencing third parties. There is a serious question in Australia as to whether a genuine right to strike exists.<sup>46</sup> These features, and other aspects of the system that tipped the balance of power away from unions, led to unions running the ‘Change the Rules’ political campaign in the lead-up to the 2019 election. In contrast to the union movement’s success in swinging votes in the 2007 and 2016 elections,<sup>47</sup> this campaign had limited impact. The level of industrial conflict has been much lower in recent years than in the 20th century (see Figure 2).

An example of the high level of attention to union regulation in Australia is found in the building industry. The Australian Building and Construction Commission (ABCC) was created by the Coalition government in 2005 with wide powers to monitor, investigate and enforce alleged breaches of industrial law. The ABCC was a government agency, not an independent tribunal, with extensive powers to prosecute unions or their officials or members, and to compel the answering of questions, with much higher fines available than for other industries (including, in some instances, jail). It restricted union access to worksites when concerns about employee working conditions arose unless stringent documentary requirements were met. The ABCC was abolished under the Labor government in 2012 and replaced by the less powerful *Fair Work Building and Construction (FWBC)* agency, but reinstated, after several years of Senate resistance, by the Coalition in 2016, although the latter had already appointed strong sympathisers to the FWBC anyway.

#### *The government as employer*

A quite different aspect of industrial relations public policy is the government’s role as employer. Sometimes it has led the way in advancing labour interests – for example, the Whitlam Labor government took a ‘pace setter’ role in increasing annual leave and introducing maternity leave. As public sector work is highly regulated, the gender pay gap is lower in the public sector than in the private

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45 Bukarica and Dallas 2012.

46 McCrystal 2019.

47 Peetz 2018.



sector.<sup>48</sup> On the other hand, public sector employers also experience the budgetary cost of wage increases, and so governments at the federal and state level, both Coalition and ALP, may impose caps on negotiated wage increases or even attempt to reduce conditions, leading at times to major industrial action.<sup>49</sup>

## Conclusions

Most public policy in industrial relations, particularly since the 1990s, has been driven by two things: political ideology and each political party's perception of what the political environment will permit. For the ALP, there is an urge to improve the position of labour (and no love of 'the big end of town'), but it is constrained by what it considers the business sector and the media will accept. For the Coalition, there is an urge to improve the position of capital (and no love of unions), but it is constrained by what it considers the electorate will allow. Occasionally, especially if an election is near, a party will enact policies that are counter to its traditional base, because of political considerations. Both sides are also constrained, in terms of legislation, by what the Senate will allow, but they (particularly the Coalition) have found that making the 'right' appointments of personnel to key positions can be at least as important as the formal aims of an organisation or its governing legislation.

Industrial relations policies are rarely evaluated in the way of public policies in several other areas, and if they are it is often for specific purposes, reflected in the bodies or individuals chosen for the task. A feature of industrial relations policy is the use of inquiries to justify political positioning, and to provide some distancing for a government that wants to test public reaction to ideas. Two recent examples are the Heydon Royal Commission into Trade Union Governance and Corruption, and a Productivity Commission inquiry into workplace regulations.<sup>50</sup> Another feature is the use of the rationale of 'productivity' to justify changes, even when the evidence on this is limited or contradictory – the most glaring example being reform in the building and construction industry.<sup>51</sup> That is, even where the reason is ideology or politics, the stated rationale may be about productivity, flexibility or economic growth.

Although all areas of public policy are influenced by ideology and politics, this phenomenon is particularly marked in industrial relations policy. While 'evidence-based policy' may be a phrase that haunts many other areas of public policy, its ghost is barely evident here.

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48 Kaine and Boersma 2018; Peetz and Murray 2017.

49 Gahan, Pekarek and Nicholson 2018.

50 Forsyth 2017; Peetz 2016a.

51 Allan, Dungan and Peetz 2010.

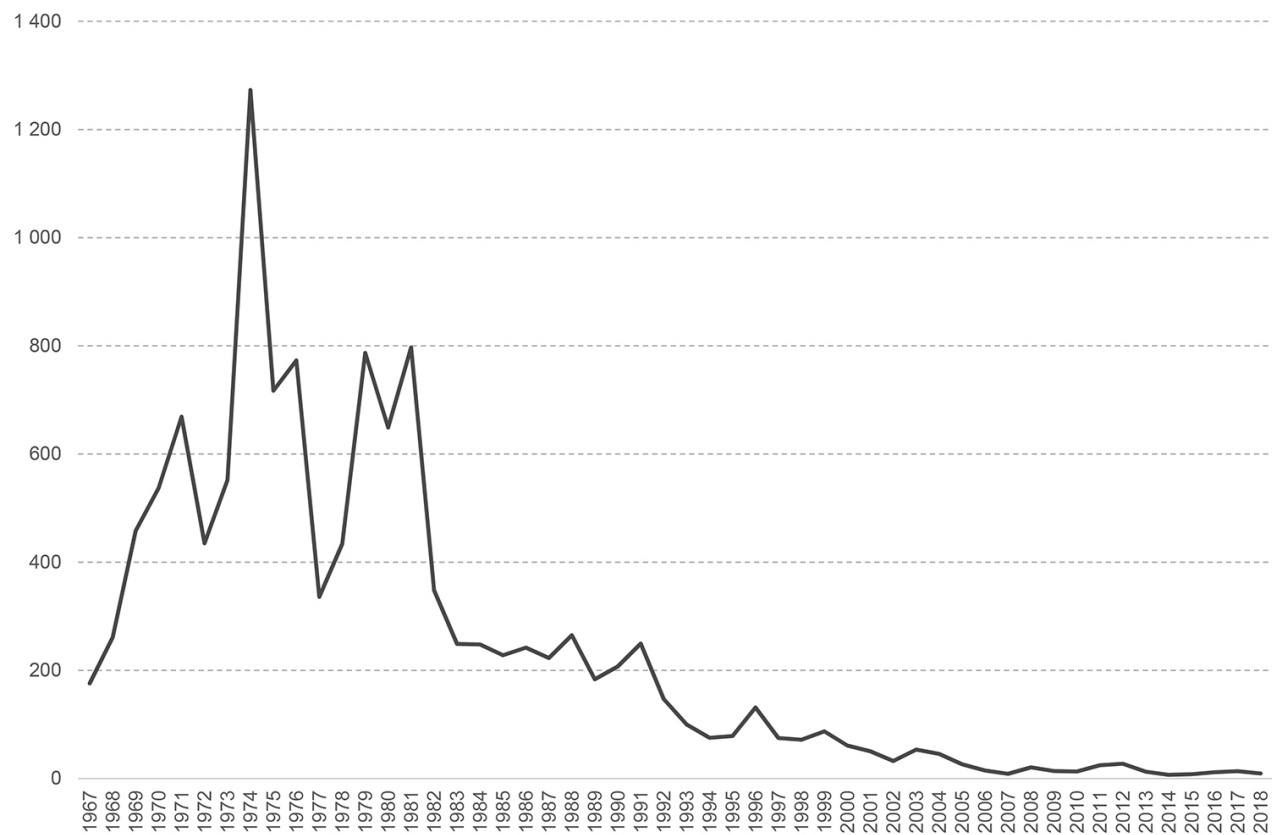


Figure 2 Working days lost per 1000 employees. Source: ABS Cat. No. 6321.0; RBA 1997, table 4.21.

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