

Lessons for Ukraine from the UK Experience of Parliamentary Opposition

Duncan Hiscock, International Centre for Policy Studies (ICPS)

This short analytical note considers various aspects of parliamentary opposition in the UK (and other Westminster style systems), to identify certain lessons that may be appropriate for Ukraine at the current stage. The key argument is that although there are certain formal procedures used in Britain that could be applicable to Ukraine, perhaps the central lesson demonstrated by the British system is the importance of a good working relationship between the government and the opposition parties on a day-to-day basis on a less formal level. For this reason, changes to Ukrainian legislation, such as a new 'Law on Opposition', can only be a partial solution, if that, and more thought should be put into how to create conditions (that become traditions) for constructive cooperation between the Government and the opposition.

Formal and informal procedures

Although many parts of the Westminster system are often attractive to analysts of political systems, it is often argued that the British experience cannot easily be implanted into transitional democracies, since the UK system developed over hundreds of years and is strongly guided by tradition, in a way that newer democracies simply cannot be. There are strong elements of truth in this. Firstly, it is obvious that studying the manner in which these procedures developed will be of only minimal relevance to Ukraine, given the different times and historical conditions involved. Secondly, very rarely can any idea be successfully transplanted wholesale from one culture to another without some kind of necessary adaptation to local conditions.

Nonetheless, there is general agreement that the UK is an established, stable, accountable democracy, and there must be something that Ukraine can learn from that. This paper suggests that although copying formal procedures to address certain problems may help, the real lesson that the UK can provide is much broader: **informal relationships between the Government and the opposition are as important as formal relationships in creating a stable and effective system of governance.** It is precisely the emphasis in the UK on tradition and procedure, rather than on legislation and constitutional guarantees, which makes this more obvious in the UK than in some other countries, but it is true of most countries with an effective democracy and an effective opposition.

1. Opposition days

According to House of Commons procedures:

Twenty days shall be allotted in each session for proceedings on opposition business, seventeen of which shall be at the disposal of the Leader of the Opposition and three of which shall be at the disposal of the leader of the second largest opposition party; and matters selected on those days shall have precedence over government business.¹

Since this is out of a total of approximately 160 days per session, about one day in eight may therefore be used as an opposition day.

The procedure for agreeing Opposition Days is not clearly codified in legislation, but in practice it is agreed between the Whips of the main parties during their regular meetings. It is then up to the government to decide when the motion will be debated but "a reasonably early day is invariably

¹ Standing Orders of the House of the Commons – Public Business 2002 (2), 'Arrangement and Timing of Public and Private Business', <http://www.publications.parliament.uk/pa/cm200102/cmstords/27507.htm>

found”.² In practice, therefore, the government normally has about 2-3 days to prepare before each opposition day.

Some approximation of this system would give opposition parties in Ukraine an important stake in the Rada. It is suggested that there is a set quota for the number of opposition days allowed in each session (or month), and that a formula is then used to divide these days between opposition parties on the basis of the number of seats they hold. This is infinitely preferable to making the number of days dependent on the number of seats held by opposition parties, which could then be used to reduce their influence.

A separate point that should be noted here is the importance of Party Whips in agreeing the agenda for parliament. The relationship between the Whips is discussed in more detail below.

2. Questions to the Government

Questions are asked of individual Government departments on a monthly basis in the Chamber and the Prime Minister faces questions weekly. The Speaker calls alternately Members from the Government side and the Opposition side. The Opposition front bench spokesmen are given the opportunity to ask more than one question.

The opposition’s right to question all cabinet members, including the Prime Minister, at regular intervals, plays a central role in holding the government to account. It is particularly worth noting that the Opposition and the Government have equal weight in the amount of questions they can ask, regardless of how many seats each party has. This is important, as it prevents the Government from neutralising parliament even when it has a large majority.

3. Funding of opposition parties³

Opposition parties can receive two sources of public funding. The first, known as ‘short money’, is only available to opposition parties and includes funding to assist an opposition party in carrying out its Parliamentary business; for the opposition parties’ travel and associated expenses; and for the running costs of the Leader of the Opposition’s office.

The second source of public funding is the Policy Development Grant, which was introduced by the Political Parties, Elections and Referendums Act 2000. Under the provisions of the Act, £2 million is allocated between all political parties with more than two MPs in the House of Common. Of this £2 million, £1 million is shared equally among the eligible parties whilst the other £1 million is divided according to formulae reflecting their strength.

It is questionable whether such a system would help in Ukraine. If a small amount of money was offered to the opposition, it would have no effect. If a large amount is offered, it would be both politically sensitive and arguably a waste of Ukraine’s limited tax-payers’ money. A Policy Development Grant might be more useful, but it is debatable whether such a grant alone could help to generate real centres of policy analysis and development among all political parties (in government and in opposition).

4. Formal recognition

Unsurprisingly for a country where the constitution is largely not codified, there are few clear legal documents on the role of the opposition. The parliament website can only offer the following:

² Erskine May, *Parliamentary Practice*, 23rd Edition, pp. 247-248.

³ Mary Durkin and Oonagh Gay, ‘Her Majesty’s Opposition’, House of Commons Library, <http://www.parliament.uk/commons/lib/research/notes/snpc-03910.pdf#search=%22a%20reasonably%20early%20day%20is%20invariably%20found%22>

*In 1937 statutory recognition was accorded through the grant of a salary to the Leader of the Opposition.*⁴

5. The 'usual channels'

One of the key methods for securing cooperation between government parties is through regular (almost daily) consultation between the Whips of the main parties. The Whips are responsible for maintaining discipline within their parties by coordinating their members' voting and acting as a channel for dialogue between the leadership and the less senior MPs. They are thus the key 'enforcer' within the UK party system.

The Chief Whips of the parties meet regularly to organise parliamentary business and agree the agenda for forthcoming parliamentary work. This form of cooperation is known as the 'usual channels'. In practice, the Chief Whip from the ruling party will consult with the Chief Whip of the official opposition before any major event, thus ensuring a high level of practical cooperation and the smooth running of parliament.

6. Alternative government/Shadow cabinet

Given the first-past-the-post system in the UK, it is advantageous for the main opposition party (or parties) to present themselves as a credible alternative government. This is done with the help of a shadow cabinet, where every government position is mirrored by a 'shadow' minister or spokesman who is responsible both for (constructively) criticizing the Government's work and for developing and promoting alternative policies. While such a system cannot work so exactly in a democracy with several parties, where the next government is likely to be a coalition, the concept of shadow ministers, combined with regular questions to the appropriate departments (see above) is a very effective way for the opposition both to hold the existing government to account and to establish the opposition as a credible alternative to the existing regime with a coherent policy programme.

A conference with senior Commonwealth representatives about the role of the opposition in 1998 made the following remarks:

*The Opposition should not only be able to take over as Government but be seen as such. In order to win it had to have the confidence of the people; it therefore had to be viewed as responsible, respected and united and its policies perceived as relevant to people's day-to-day lives. It needed to use parliament effectively, to promote a team (not only individual leaders), to continually review its overall approach and ensure that it interacted effectively with independent institutions to formulate new policy.*⁵

As noted, this system cannot be copied precisely in a multi-party setting where coalitions are the norm. However, the principle that opposition parties have credible spokespersons on a range of policy issues should be encouraged, as it could be expected over time to significantly raise the quality of both government and party policy making.

7. Loyal opposition/Official opposition

Over the centuries, the concept of a 'loyal' opposition has become established. The idea is to emphasise that although the opposition is opposed to the policies of the current government, it is not opposed to the queen – and therefore the state. Its key benefit is to remind both the public and politicians that they share a similar goal (the country's future stability, happiness and prosperity) and that the disagreements are only about the methods that are employed to achieve these goals.

⁴ Ibid. Quoted from the Ministers of the Crown Act 1937.

⁵ 'The Role of the Opposition', Report of a workshop on the rights and responsibilities of the opposition organised by the Commonwealth Secretariat and the Commonwealth Parliamentary Association, London 8-10 June 1998.

Opposition and Government – a symbiotic relationship

The conference of Commonwealth leaders mentioned above discussed various aspects of the role of the opposition, but one strong thread run through all their discussions: to a significant degree, the effectiveness of the opposition depends on its relationship with the Government and the wider context in which they both operate. Effectiveness in this sense should be seen not so much as the opposition's ability to build popularity, but in its capacity to constantly hold government to account and thus raise the quality of decision-making within the country:

for the Opposition to be effective there needs to be acceptance on the part of both the Government and the wider society of the essentials of parliamentary democracy. There has to be agreement on the 'rules of the game' and all-round acceptance that the Opposition had an important role to play.

mechanisms to promote accountability and exposure would only be effective if there was a general 'culture of accountability' and commitment, by Government as well as Opposition, to the overall effectiveness of the parliamentary system⁶

The message running through this is that the quality of parliamentary governance in the country depends in part on the quality of the opposition, the quality of the opposition depends in part on the quality of its (procedural) cooperation with the government, and this, in turn, depends on the willingness of the government to recognise the important role that opposition parties can play.

In a country like Ukraine, where parliamentary democracy is far from established, there is an extra responsibility on both the government and the opposition parties to build and maintain effective systems of cooperation on procedural matters, while raising the quality of debate on policy matters. To some extent, you cannot judge the opposition without judging the government, and you cannot judge the government without judging its opposition.

A Law on Opposition – at best, a partial solution

There has been much talk recently in Ukraine about the lack of formalised procedures to protect the role of the opposition in the Verkhovna Rada. Undoubtedly, there are clearly gaps in the procedures, and this is causing problems. However, the assumption that a 'Law on Opposition' would somehow solve these problems is extremely questionable. At best, it is a partial solution.

There are three reasons for this:

- 1) Any law in any country can be twisted, loopholes can be found – if people so desire to do so. A major problem in Ukraine is that laws are simultaneously seen as the answer to every problem and manipulated or ignored by many people. Until there is a proper culture of respect for the rule of law in Ukraine, a law on opposition may help to set norms, but it will not by itself make these norms genuinely control the interaction between different forces.
- 2) Bringing all procedures on the opposition together in one law would be a major change, but it arguably would not to a suitable level address the wider process of interaction between the opposition and government in all areas: what is really needed is to 'mainstream' new methods of cooperation between the government and the opposition across all the workings of parliament. Otherwise, the law on opposition may say one thing but if other laws and procedures contradict it or do not indicate the role of the opposition remain in any given sphere, the same attitudes and working methods are likely to remain.
- 3) As I argue above with regard to the UK, formal laws and procedures will not work without a wider network of less formal cooperation mechanisms underpinning them. Essentially, whatever the legislation says, if the government and opposition don't see the benefits in working together, they won't. Less formal mechanisms are often much more effective in building a common vision and mutual trust than formal mechanisms.

⁶ Ibid.

If the above analysis is true, it may be argued that some UK experience may be of use, but other parts will not be without a wider shift in political culture. It is arguable how much this political culture could be altered simply by changing the official coordination mechanisms at this stage. It may indeed be better to try to identify existing examples of constructive cooperation (of which there are probably more than first appear) and consider how this cooperation could be turned from an *ad hoc* event to a norm or tradition – whether formal or informal.