

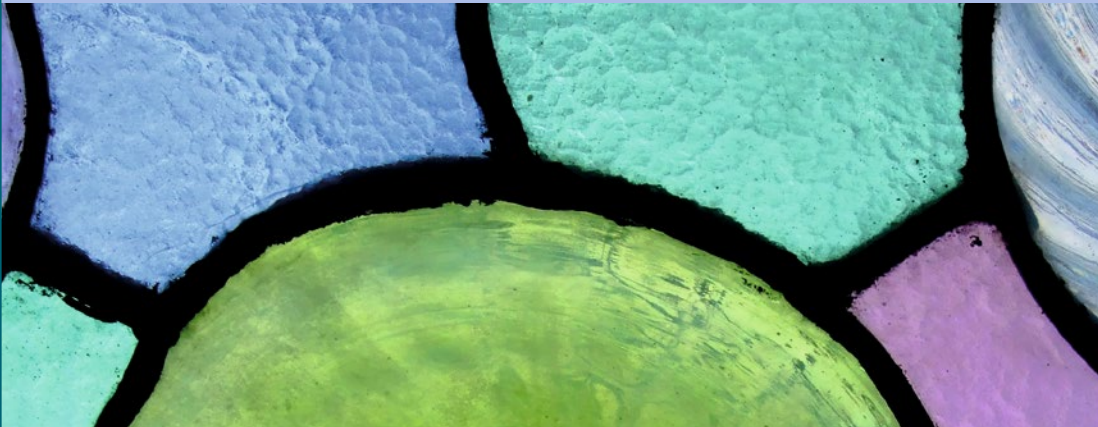


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Toxic Parliaments

And What Can Be Done About Them



Marian Sawer · Maria Maley

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Understanding the problems inherent in the parliamentary workplace and the possibilities of reform became urgent in 2021, as #MeToo finally made its way into Australian politics. It was time to review and try to explain the changes taking place in parliamentary workplaces across the Westminster world. We received funding from the Australian Political Studies Association (APSA) and the Global Institute for Women's Leadership (GIWL) to hold a workshop in Canberra on Parliament as a Gendered Workplace, while the School of Politics and International Relations (SPIR) at the Australian National University (ANU) provided administrative support.

Due to the COVID pandemic the workshop was held in hybrid format, with interstate and international participants presenting through video and Zoom. It was attended by past and present parliamentarians, staffers, and Australian and international experts. Speakers included: Dr. Anne Aly MP, the Hon Kate Ellis, Dr. Helen Haines MP, Elizabeth Lee MLA, Senator Larissa Waters, the Hon Sharman Stone, Melissa Donnelly and Caitlin Figueiredo; and academics Jane Alver, Kerryn Baker, Andrea Carson, Sarah Childs, Cheryl Collier, Marnie Cruickshank, Josefina Erikson, Susan Harris Rimmer, Carol Johnson, Cecilia Josefsson, Maria Maley, Sonia Palmieri, Kieran Pender, Tracey Raney, Joanna Richards, Pia Rowe, Kim Rubenstein, Tania Verge, Chris Wallace and Blair Williams.

In addition to papers (published in the *Australasian Parliamentary Review*), the workshop drafted a model code of conduct for the Australian Parliament. In partnership with GIWL, we engaged with the Australian

Human Rights Commission, the Joint Select Committee on Parliamentary Standards and the Parliamentary Leadership Taskforce on reform. We wrote submissions, gave evidence at inquiries and attended consultations.

We learned much from the key actors in the reform process. Our informants included Kate Jenkins, the former Sex Discrimination Commissioner; Kerri Hartland and Dr. Vivienne Thom, successive chairs of the Parliamentary Leadership Taskforce; and Tegan Johnson from its secretariat. Others who generously shared their knowledge with us included Richard Kelly of the Parliament and Constitution Centre, UK House of Commons Library; Canadian experts Professor Cheryl N. Collier and Professor Tracey Raney; President of the Canadian Study of Parliament Group, Charles Feldman; the Communications Team at the New Zealand Parliament; former MP Emma Husar; Anna Hough and Deirdre McKeown both formerly with the Parliamentary Library of the Australian Parliament; and Dr. Sonia Palmieri at the Coral Bell School of Asia Pacific Affairs, ANU, formerly with the Australian

Parliament and the Inter-Parliamentary Union. Finally, we thank our anonymous reviewer for their detailed and very helpful suggestions and we thank GIWL and the SPIR for their support in making the book available on open access.

ABOUT THIS BOOK

This book shows how the #MeToo movement and revelations of sexual harassment and bullying in the parliamentary workplace have provided momentum for reform in four Westminster countries—Australia, Canada, New Zealand and the UK. These parliaments were characterised by extreme power imbalances between parliamentarians and staff and a lack of professionalised employment practices. Codes of conduct and independent complaints bodies were resisted on grounds of parliamentary privilege: the ballot box was supposedly the best means of holding parliamentarians accountable for their conduct. The taken-for-granted status of adversarialism as the fulcrum of politics also rendered gendered mistreatment invisible.

We examine the different trajectories of reform in the four countries, but with most detail on the dramatic developments in Australia after angry women marched on parliament houses in 2021. At the theoretical level, the book illustrates the role of gendered logics of appropriateness in sustaining institutional practices and of critical junctures in enabling institutional change. While charting positive developments in the four countries, it reveals issues of ‘nested newness’ where new approaches to misconduct succumb to old partisan logics.

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ABBREVIATIONS

ACT	Association of Consumers and Taxpayers
CALD	Culturally and linguistically diverse
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEO	Chief executive officer
CHRO	Chief Human Resources Officer
CPA	Commonwealth Parliamentary Association
FOI	Freedom of Information
HR	Human resources
ICGS	Independent Complaints and Grievances Scheme
IPEA	Independent Parliamentary Expenses Authority
IPU	Inter-Parliamentary Union
LGBT+	Lesbian, gay, bisexual, transgender
LGBTIQ+	Lesbian, gay, bisexual, transgender, intersex, queer
MP	Member of Parliament
PLT	Parliamentary Leadership Taskforce
PWSS	Parliamentary Workplace Support Service
UK	United Kingdom

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CHAPTER 1

Introduction

Abstract Almost 100 years after the arrival of women in the masculine domain of parliament they began breaking the silence about sexual harassment and bullying they experienced. This chapter introduces concepts relating to this experience, including toxic parliaments, sexual and sex-based harassment and bullying, as well as the broader concept of violence against women in politics and its disproportionate impact on those from minority backgrounds. Characteristics particularly associated with Westminster parliaments such as adversarialism and conventions of parliamentary privilege are briefly introduced, along with the distinctive nature of the parliamentary workforce. Feminist institutionalism provides the theoretical framework for the overall argument—that in Australia parliamentary reform took longer than in other Westminster parliaments but that a combination of timing and local mobilisation created a critical juncture and powerful momentum. The chapter ends with an overview of the rest of the book.

Keywords Toxic parliaments • Sexual harassment • Bullying • Violence against women in politics • Westminster • Adversarialism • Parliamentary privilege • Feminist institutionalism

I was sexually assaulted by an Australian parliamentarian's chief of staff—I believe change is coming.

So read the headline from an article in *The Guardian* by a former political staffer.¹ She had been a volunteer in the early 2000s but ‘I did not volunteer for what happened next’. She did not report the incidents to anyone, fearing the consequences would be worse for her than for him. ‘I did not keep quiet to protect him. I kept quiet to protect myself’. Twenty years later, as a survivor of sexual assault, she became one of over 1700 individuals contributing to a landmark review of the Australian parliament and its workplaces.

Experience of sexual misconduct was common in the Australian parliament, as in other parliaments around the world. So was the silence of those who experienced misconduct, fearing the consequences of speaking out—for their party as well as for their own career. This book asks why it took so long for the silence to be broken and what happened when it was. Its main focus is the Australian Parliament but viewed in the context of developments in the three most similar national parliaments—in the United Kingdom (UK), Canada and New Zealand. We start by introducing some of the terms used in the book, including the Westminster conventions shared by these parliaments, and the theoretical framework within which our analysis is situated. We finish by outlining the complexities of the parliamentary workforce and the structure of the book.

TOXIC PARLIAMENTS

In discussing the problem of misconduct in the parliamentary workplace, this book uses a number of different terms, reflecting usage in different parliaments. The term ‘toxic parliament’ refers to a parliamentary work environment in which employees and elected members do not feel safe. While workplaces may be disadvantageous or hostile, the term ‘toxic’ suggests a more serious meaning: that such workplaces are harmful and injurious. Broadening the focus to include staff in parliamentary spaces reveals how damaging they can be to individuals, many of whom are young and in precarious employment. Conduct that creates a toxic work environment includes workplace bullying, sexual harassment, sex-based harassment and sexual assault. This book focuses on the ways in which such misconduct is being addressed, within the constraints posed by Westminster systems. Although there is a significant new literature that brings misconduct such as sexual harassment under the rubric ‘violence against women in politics’, this book does not generally do so for reasons set out below.

Reports and surveys conducted in Westminster parliaments reveal that bullying is a relatively common experience for political staff and parliamentary workers and is less commonly reported by parliamentarians. Workplace bullying is repeated and unreasonable behaviour that can include threats of physical violence, aggressive or intimidating comments, belittling or humiliating conduct, unjustified criticism or complaints, and deliberate exclusion. It often involves an abuse or misuse of power.

The concept of sexual harassment developed in the 1970s, when it was identified as a form of sex discrimination—impinging on the right of women in the workplace to be free of unwanted sexual attention. The first case law came from Australia, Canada, the UK and the United States, with most European Union member states not following until the early 1990s.² Australia was a pioneer in explicitly including sexual harassment as unlawful conduct under the *Sex Discrimination Act 1984* and it became the most common ground of complaint. Despite this early legislative recognition of sexual harassment, the Australian Parliament was particularly slow in extending such recognition inwards.

Today sexual harassment in the workplace is explicitly addressed in both international and regional agreements, including General Recommendations flowing from the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Labour Organization Convention 190 and the European Union Directive on equal treatment of men and women at work.

Initially, sexual harassment was seen primarily in terms of sexual coercion, ‘whereby an individual in a position of power demands sexual favours as a condition of employment or promotion’.³ Subsequently the definition was broadened to cover all forms of sexual attention or references that might create a hostile work environment. It covers both ‘unwelcome conduct of a sexual nature’ and also sex-based harassment, defined as ‘unwelcome conduct of a demeaning nature by reason of the person’s sex’ which offends, humiliates or intimidates someone. It may include inappropriate and sex-typed assignment of tasks such as making tea. It may also include asking intrusive personal questions or making inappropriate comments based on a person’s sex or making sexist, misogynistic or misandrist remarks about a person, either in person or online.⁴ By 2018, surveys conducted by the Australian Human Rights Commission showed one in three people reporting experience of sexual harassment in the workplace and an even higher rate for Indigenous people.⁵

A new literature emerging from scholars such as Mona Lena Krook and from agencies such as UN Women brings sexual harassment under the rubric of ‘violence against women in politics’. The concept of violence against women in politics gathers together a broad range of harms intended to ‘attack and undermine women as political actors’.⁶ It helps to identify gender-specific harms that are distinct from other forms of political violence deployed to gain the upper hand in partisan competition. It encompasses online and offline physical, psychological, sexual, economic and semiotic forms of violence and is increasingly recognised as a major barrier to women’s full participation in public life.⁷

As Tània Verge (Minister of Equality and Feminisms in the Catalan Government at the time of writing) has said, because sexism and sexual harassment impairs women’s right to contribute under equal conditions to political debate, international organisations have viewed these parliamentary misdeeds as part of the continuum of violence against women in politics.⁸ Campaigns such as the #NotTheCost campaign of the National Democratic Institute have attempted to counter the argument that threats and harassment are part of the normal cost of doing politics. In June 2023 the UN High Commissioner for Human Rights wrote an open letter to the permanent representatives of member states, urging states to take action with a view towards zero tolerance for harassment and violence against women in politics, including both in parliament and online. New standards were being applied to how parliaments operated.

Despite this burgeoning campaign on violence against women in politics, this book mainly uses the different terminology associated with campaigns around equal opportunity and respect at work. The arrival of significant numbers of women in parliament from the 1990s has raised new questions about whether they have equal opportunity to perform their representative roles, whether as elected politicians or staffers and whether the same standards exist as in other workplaces.⁹ When viewing parliament through such a lens, workplace terminology has become more common, both in naming parliamentary misconduct and taking steps to deal with it. Practitioners, scholars and commentators in the UK, for example, have preferred to use the terms ‘harassment’, ‘intimidation’ and ‘abuse’ rather than ‘violence’ and this has also been true elsewhere.¹⁰

Sexual harassment, up to and including sexual assault, was the primary focus of the #MeToo movement which went global via Twitter in 2017.¹¹ Going global began with sexual abuse allegations against Hollywood film producer Harvey Weinstein. It quickly spread beyond Hollywood and as

we shall see in Chap. 4 it inspired women politicians and political staffers around the world to speak out about the sexual harassment they had experienced.

The revelations that followed made clear the importance of what is called an ‘intersectional’ approach to gender analysis. This means that overlapping identities such as race, class, disability, ethnicity or other attributes need to be taken into account as they result in intersecting identities and experiences. For example, women from racial or ethnic minorities have been disproportionately targeted for both sexist and racist online abuse and may also experience injustice when reporting such abuse.

People who identify as LGBTIQ+ are also more likely to experience sexual harassment, including in the parliamentary precinct, than people who identify as heterosexual.¹² The terminology to describe gender identity is evolving and varies between countries; the term LGBT+ is also used here, following UK practice.

WESTMINSTER CONVENTIONS

While the Australian parliament provides the focus for this book, close attention is paid to related developments in Canada, New Zealand and the UK. Australia, Canada and New Zealand were British colonies that inherited in full parliamentary practices from the UK, before developing their own variants. This Westminster inheritance was an amalgam of customs, explicit rules and established routines. From the beginning it was a source of policy transfer and policy borrowing and this has continued up to the present.

Westminster parliaments are instantly recognisable because of inherited features such as the government occupying the front benches to the right of the Speaker, the Opposition to the left, as well as the colours of green for lower houses and red for upper. Inherited rules included the original standing orders of the colonial parliaments. As Australia’s Constitution s. 49 says: ‘The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each house, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth’.

Despite dissimilarities that grew over time, the Australian, Canadian and New Zealand parliaments remain recognisably ‘Westminster’

parliaments. They share strong conventions about parliamentary privilege, which developed in the course of the historic struggle between crown and parliament in seventeenth-century England. In the Westminster tradition, parliamentary privilege has been understood as the right of each house of parliament to regulate its own affairs and the conduct of members without external interference. In accordance with the principle of ‘exclusive cognisance’ courts should not adjudicate on the internal proceedings of parliament and vice versa. In particular, the freedom of speech in parliamentary debates or proceedings ought not to be impeached or questioned in any court.

As we shall see in Chap. 3, the legacy of parliamentary privilege and self-regulation of conduct has proved one of the obstacles to reform in the parliamentary workplace. Such reform has become more pressing with the growth in the number of paid political staff working for both ministers and parliamentarians. Around the world there has been increased professionalisation of politics, with careers commonly beginning at a young age among these growing ranks of political staff. The skills and networks acquired by such staff often boost their chances of acquiring preselection for a winnable seat in parliament. The setting of professional standards, however, was slower in politics than in other professions. Loopholes in anti-discrimination or equal opportunity legislation also meant that coverage of parliamentarians was often uncertain and loopholes were only closed in the wake of scandals.

In the UK, the Nolan Committee on Standards in Public Life found in the 1990s that parliamentarians were not aware of the standards of conduct expected of them and that up to that point there was neither a code of conduct or any limit or ban on outside earnings.¹³ While the ‘cash for questions’ scandal in the UK was a particular catalyst for action, the other Westminster parliaments were also grappling with questions of a code of conduct.

With the benefit of hindsight, it is remarkable that the parliamentary codes of conduct under discussion prior to 2017 were all about conflicts of interest and financial misconduct and did not touch on the question of sexual misconduct. Scandals can help drive reform despite the weight of institutional inertia, but at the time the scandals were not about sexual misconduct.

In addition to the complications presented by parliamentary privilege, the family of Westminster parliaments also share a tradition of ‘majoritarian’ government, with parliaments organised around a contest between

government and Opposition rather than consensus-seeking among a wider group of players. Typically, such governments derive from majoritarian electoral systems that have disproportional results and favour two-party systems.

Electoral change in the Australian Senate and in New Zealand has modified majority government¹⁴ and the grip of the two-party system has been loosened in all four countries. Nonetheless, the tradition of strong adversarialism across the despatch box remains the norm, with the rival teams jeering at each other across the chamber.

At the international level, the Commonwealth Parliamentary Association (formerly the Empire Parliamentary Association) has been one of the bodies along with the Inter-Parliamentary Union (IPU) that has sought to set standards for parliamentary democracy and disseminate examples of good practice. In a pioneering report, it observed that the legacy of Westminster is reflected both in the architecture of Westminster-style debating chambers and in a highly competitive and adversarial political culture ‘reflecting male values’.¹⁵

FEMINIST INSTITUTIONALISM

The theoretical approach of the book is that of feminist institutionalism, focusing on the norms and expectations that become part of the ‘gendered logic of appropriateness’ within institutions. This approach emphasises the importance of informal rules and practices, the ‘hidden’ aspects of political institutions.¹⁶ It has proved particularly useful in analysing the interaction of formal and informal rules in parliamentary institutions and gendered outcomes of this interaction.

Parliamentary conventions have been resistant to change and resistance has tended to be long lasting, despite the increasing diversity of parliamentary membership. New entrants are expected to conform to existing practices, despite being disadvantaged by them. This may mean compliance with traditional norms of masculine performance, such as the ability to work long and irregular hours away from home. The gendered nature of such norms is not recognised; instead those who question them are regarded as not understanding parliamentary institutions and how they operate.

Historical institutionalism, on which feminist institutionalism draws, envisages long periods of institutional continuity, where institutions are reproduced, interrupted at critical junctures by radical change, when new

institutional structures are created. This tends to occur when people lose faith in current institutional arrangements. Critical junctures are periods of contingency when the usual constraints on action are lifted, creating opportunities for agents to alter the trajectory of institutional development.¹⁷

In this book we suggest that the events of 2021–2022 in Australia were such a critical juncture. The arrival of the #MeToo movement encouraged the breaking of the silence which for so long had protected existing parliamentary arrangements. A young woman staffer alleged a rape in a minister's office had been covered up for party political reasons. The scandal took off and political mobilisation took place with the help of social media. Angry women converged on parliaments around Australia and the March4Justice dominated the news in early 2021. As we shall see in Chap. 4, other developments, including the role of Gallery journalists, ensured that the issue remained on the agenda in the run up to the 2022 federal election. The political force of these events interrupted the self-sustaining nature of parliamentary arrangements and created the opportunity for radical institutional change.

Feminist institutionalist analysis also draws attention to the importance of timing and sequence in institutional change and policy development. For example, when new political institutions are created after the adoption of international and regional gender equality frameworks, they are more likely to be gender-inclusive in design. Since 2012 the IPU has been a standard-setter at the international level for the 'gender-sensitive parliament', circulating examples of good practice. However, even when parliamentary institutions are designed to be more inclusive and gender sensitive, there are the effects of 'nested newness' and the problem of 'remembering the old and forgetting the new'.¹⁸ In other words, the intention of new formal rules may be undone by institutional and cultural legacies.

Pioneering comparative work by Cheryl Collier and Tracey Raney has applied a feminist institutionalist lens to three Westminster parliaments, those of Australia, Canada and the UK. They consider whether 'the characteristics of Westminster-style governance contribute to, encourage, and/or promote sexism and sexual harassment'. They identify such characteristics as 'the myth of gender neutrality'; 'a foundation built on adversarial political debate'; and 'the embrace of parliamentary privilege'.¹⁹ This book follows Collier and Raney in exploring the role of adversarialism and parliamentary privilege in sustaining gender bias in the parliamentary precinct.

We also build on the work of Collier and Raney in showing how Westminster conventions can help preserve an institutional culture based on male norms and expectations. These informal rules have meant that despite their increased presence, women may still lack equal opportunity to perform their role as representatives. Entrenched expectations may make it difficult to combine caring roles with parliamentary work, while women may also be judged adversely against masculine models of leadership competition and norms of verbal aggression. The adversarialism associated with the Westminster model and its links with sexual harassment are explored further in Chap. 3 of this book.

Another concept usefully applied by Raney and Collier is that of ‘path dependence’. This is a concept developed within historical institutionalism and emphasises the role of past policy choices in determining future policy paths. This concept helps explain how the UK parliament was able to respond relatively quickly to the sexual harassment scandals of 2017. Because the UK had created independent oversight bodies as part of its response to financial scandals some 20 years before, it was easier to tread the same path and develop independent bodies to respond to sex scandals.²⁰

The significance of timing and sequence is yet another institutionalist insight. It is brought to bear by Raney and Collier to explain the relative weakness of the Canadian Parliament’s response to revelations of sexual harassment. Canadian policies and procedures predated #MeToo and meant that in 2017 the claim could be made the problem had already been addressed. In contrast, the exogenous shock of #MeToo was to result in more sweeping reforms in the UK.

As we shall see, timing and sequence was also to be of great importance in Australia. While claims continued to be made up to 2020 that a code of conduct was unnecessary because politicians were accountable at the ballot box, by the next year there were marches on parliament demanding they become safe places for women. With the help of women journalists this remained on the political agenda and an embattled government was anxious to resolve the issue before the forthcoming election. This timing meant that Australia was able to move very quickly to achieve bipartisan commitment to major reform.

Once pressure for reform had become overwhelming in Australia, policy borrowing became significant. This is often analysed in public policy studies through the concept of policy transfer and the related concept of institutional isomorphism, referring to the processes whereby institutions

take on a similar form. The Westminster legacy means additional legitimacy for policy borrowing from within the Westminster family rather than from other sources. This has led to renewed impetus for institutional isomorphism, an original feature of the Westminster parliaments but seen again with the copying of independent parliamentary oversight bodies pioneered in the UK (so-called ‘mimetic isomorphism’). Within feminist institutionalism, the role of policy transfer and related institutional isomorphism has so far been studied most notably in relation to the diffusion of gender mainstreaming and of gender-focused parliamentary bodies, less so in relation to other parliamentary reform.²¹

METHODS OF THIS STUDY

As detailed in the Acknowledgements, this book began in 2021 with a workshop on parliament as a gendered workplace. Evidence was presented by past and present parliamentarians, parliamentary staff, the union leader with responsibility for parliamentary staff and Australian and international experts on the parliamentary workplace. The authors drew on this evidence and on their own previous research to engage with the Australian Human Rights Commission Review of Commonwealth Parliamentary Workplaces as well as the Joint Select Committee on Parliamentary Standards and the Parliamentary Leadership Taskforce set up in the Australian Parliament. These conversations, interviews and participant observation enabled us to learn from key actors in the Australian reform process, while also learning from experience in the three Westminster parliaments that constitute our ‘most similar cases’.

In addition to learning directly from key actors in the process of parliamentary reform we drew on the plethora of recent books by Australian women parliamentarians and surveys by networks of parliamentary staffers (the Elizabeth Reid Network) and by unions representing parliamentary staff. A wealth of information was found in the reports of independent reviews conducted in Westminster parliaments, both national and subnational, and in the reports and guidelines published by the Inter-Parliamentary Union, a significant reference point for parliamentary reform at the national level. These sources were supplemented by wide-ranging documentary review, covering Hansard records of committee inquiries and parliamentary debates, reports and submissions. There are many public documents available to researchers such as codes of conduct,

protocols and role descriptions of Commissioners of Standards, and annual reports of parliamentary departments and complaints bodies. Parliamentary libraries can also publish detailed research briefings. In Australia and New Zealand, there is regular public reporting of progress in implementing the recommendations of external reviews. In a changing landscape, these are essential sources of up-to-date information about changes to rules and practice and they also help to identify the obstacles to reform.

WHO ARE THE WORKERS IN THE PARLIAMENTARY WORKPLACE?

The parliamentary workplace is not a single location, but includes many physical sites, populated by a range of different workers who operate under distinct employment frameworks. It comprises the parliament buildings—their chambers and their offices—as well the often far-flung constituency offices of parliamentarians. It also includes the online space. Thousands of people work in these places.

Those found inside the parliamentary workplace include parliamentarians and the staff employed by them, as ministerial and parliamentary advisers and in constituency support roles. It also includes staff employed by the parliament, working in committees, parliamentary libraries and dining rooms, for example. Other staff working in parliament buildings can include journalists, guides and interns. Most of these people are employees, though they have many different employers. Parliamentarians, however, are not considered to be employees. The parliamentary workplace is thus a complex ecosystem.

The number of people in parliamentary workplaces is large, and the vast majority are not parliamentarians. Should we include all parliamentary pass holders, visitors and volunteers, numbering several thousands? Finding accurate data is challenging. It can be difficult to directly compare the numbers of staff in Westminster parliamentary workplaces as they can be employed in different ways and in different locations. In the UK, there are over 3500 staff employed by members of parliament (MPs) at the time of writing and around 3000 staff working for the House of Commons Administration in the committee system, the Library and other roles. UK ministers employ 113 Special Advisers alongside civil servants in their offices, which are based in civil service departments rather than in parliamentary buildings.

This separate location of ministerial staff is also true in Canada. Along with over 2000 House of Commons Administration staff, there were 1920 parliamentary and constituency staff employed by Canadian MPs in parliamentary workplaces in 2023, and over 500 ministerial staff based in departmental offices. For this reason—that they work in departmental not parliamentary locations—Canadian ministerial staff and UK Special Advisers are usually not included in inquiries into the safety of parliamentary workplaces or in the numbers of staff in such workplaces.

New Zealand and Australian staffing arrangements are different. In 2019 it was reported there were 1100 staff working in New Zealand parliamentary precincts, electorate and community offices. This included around 600 staff employed by the Parliamentary Service (half in corporate roles and half working as support staff to MPs) as well as around 300 ministerial staff and portfolio private secretaries and 110 staff in the Office of the Clerk of the House of Representatives. In Australia, in 2021 there were 4000 people working in parliamentary workplaces, which included over 2000 staff employed under the *Members of Parliament (Staff) Act*—either as electorate staff or advisers to support parliamentarians and ministers—and around 1000 staff employed under the *Parliamentary Service Act* to work in the Parliamentary Library, the committee system and other roles within the parliament building.²²

OVERVIEW OF THE BOOK

After this Introduction, the book begins with the delayed entry of women into the male domain of parliament and the assumption both by the public and by political science that women's primary responsibility as citizens lay in the private rather than the public domain. It examines the emergence in the 1970s of feminist critique of the gendered nature of legislative recruitment and of parliamentary institutions. The expectation of 'two-person careers', where wives undertook all caring responsibilities as well as assisting with constituency work, meant that parliaments did not need to accommodate the needs of political representatives as care givers. Examples of such gendered institutional practices are taken from the Westminster sample and particularly the Australian Parliament.

The third chapter further identifies the nature and problems of the parliamentary workplace and how it could become a hostile environment

for women. It analyses the formal and informal norms that create resistance to independent oversight of members' conduct, in particular the role of parliamentary privilege and of Westminster adversarialism. It looks at the constraints on speaking out about sexism, using the example of Australian Prime Minister Julia Gillard, and the role of the press gallery in upholding such constraints.

The fourth chapter examines how the silence over gendered experience of the parliamentary workplace was finally broken, including both international and domestic factors. It examines an important Australian court case over sexist slurs on the floor of parliament, repeated outside, and an unsuccessful invocation of parliamentary privilege. It finds that despite women politicians beginning to speak out in Australia, it was when women staffers began to tell their stories that sexual misconduct in parliament became ongoing news. Senior women journalists played an important role in ensuring women's safety became an electoral issue—a distinctive element in the Australian response. While embarking late on parliamentary reform, Australia had the benefit both of popular mobilisation around the issue and the experience of Westminster parliaments that had been earlier movers, particularly the UK.

The fifth chapter dives into the complexities of parliamentary reform, given the diverse nature and legislative frameworks of employment in the parliamentary precinct. It describes the steps taken to reform parliamentary workplaces in the UK, Canada and New Zealand, revealing the distinct approaches taken in each country and the challenges that arise from their different models. The chapter reveals the difficulties involved in tackling sexual and sexist misconduct in parliaments, what core reforms are needed and what issues continue to be grappled with as parliaments try to create model workplaces.

This comparative analysis provides the backdrop to the account in the final chapter of the dramatic trajectory of reform in Australia. The Australian reforms are still unfolding and are consciously built upon the lessons learnt elsewhere. Despite commonalities flowing from Westminster parliamentary conventions and more recent international standard-setting, there are interesting differences in dealing with issues such as sexual harassment and bullying.

This book shows how similar parliaments responded to the external shock of the #MeToo movement which broke the silence about gendered

misconduct. While moving in somewhat different ways and at a different pace, they were able to learn from one another in developing a reform agenda. Our aim is to contribute to this learning process and show how the workplace at the centre of representative democracy can be brought to adopt the kind of diversity and inclusion standards already mandated in other professional workplaces.

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CHAPTER 2

Women Arrive in the Parliamentary Workplace

Abstract Despite achieving the right to stand for parliament, women's role as wife and mother was expected to largely preclude political ambitions. Parliaments resisted the presence of women, even as Hansard reporters, although out of public view they filled administrative roles in the offices of parliamentarians and ministers. Politics remained a 'two-person career', with wives expected to contribute unpaid political support for their husbands, as well as managing family and household. The eventual inflow of younger women into parliament in the 1990s (in Australia, after the adoption of party quotas) led to a struggle to convert a masculine institution into a family-friendly one. Babies in the chamber could no longer be treated as 'strangers' and parental leave and childcare were needed. Women took on prominent roles in ministers' offices, though such positions of influence could be perilous. This chapter tracks changing perspectives on the social expectations, organisational practices and institutional norms that served to exclude women from political careers or to constrain their contribution once they had arrived in parliament.

Keywords Masculine domain • Two-person careers • Critical mass • Quotas • Family-friendly parliaments • Political staff

The political mobilisation of women to achieve women's suffrage was eventually successful, first in New Zealand in 1893 and in many countries

following World War I. It did not, however, guarantee the presence of women in parliament, something that even many suffragists were ambivalent about at the time. Before the renewed mobilisation of women in the 1970s, the absence of women from public life was assumed by political scientists, as well as the general public, to be largely inevitable.

While in a formal sense, women had won equal citizenship, their primary obligations as citizens were construed as being in the private rather than the public realm. Because of their roles as wives and mothers, their citizenship duties would be performed largely in the home. Such beliefs long constrained the entry of women into political careers as well as into other public roles—the struggle for women’s jury service took even longer than the struggle for political rights.

Belief that women’s primary obligations lay in the home meant they were available to perform support roles for husbands engaged in public life. Thanks to wives, the normative parliamentarian was not burdened with caring responsibilities when they achieved elected office. This meant that parliaments did not need to accommodate such responsibilities in their institutional arrangements or become ‘family friendly’.¹ This chapter tracks changing perspectives on the social expectations, organisational practices and institutional norms that served to exclude women from political careers or to constrain their contribution once they had arrived in parliament.

SUFFRAGE AND BEYOND

In the late nineteenth and early twentieth centuries, the primary concern of suffragists was to ensure that women gained the power of the vote. They believed that armed with the vote, women would be able to influence social policy. As part of the struggle for the vote in the United Kingdom (UK), suffragist publications stressed the connection between women’s suffrage and progressive social legislation in Australia and New Zealand, including old-age pensions, pure food and child protection Acts.²

However, although women’s non-party organisations sought to mobilise the power of women’s votes, it was party loyalty that largely determined voting. In terms of actually standing for parliament, both entrenched party norms and the family roles ascribed to women were to prove a long-lasting barrier. Critics, including political scientists, associated political aspirations on the part of women with neglect of their more primary duties of caring for husbands and families. Robert E. Lane, later President of the

American Political Science Association, wrote that interest in politics moved women from their proper role and sphere of competence and meant borrowing time and attention from their children.³

Nonetheless, feminists seized the opportunities provided by the creation of new transnational bodies to promote women's political rights. In the 1950s the United Nations (UN) and its Commission on the Status of Women developed a new Convention for this purpose—the UN Convention on the Political Rights of Women, which sought to guarantee women's rights to be eligible for election.

In conjunction with the new Convention, the UN Commission on the Status of Women initiated the first cross-national survey research on women's political participation. While the research leader, Maurice Duverger, believed this to be a serious subject, many of the political scientists asked to provide information did not. The absence of women was often justified by the argument that politics was by its nature a field essentially suited to men, and women themselves tended to accept 'the secondary place to which they are still assigned'.⁴

Although Australia had been the first of the Westminster countries to grant the right of women to both vote and stand for the national parliament, it was the last to ratify the Convention on the Political Rights of Women. This was because Article III required that women be entitled to hold public office and to exercise public functions on equal terms with men. Australia could not meet these requirements because of the public service marriage bar (which lasted much longer than in Canada, New Zealand or the UK), the gender pay gap and restrictions in relation to jury service.

Even the Australian Constitution has been found to conspire against women's presence in the parliament. Section 44 (iv) bars those who hold 'any office of profit under the Crown' from standing for election. This has been interpreted as excluding public sector employees such as teachers, nurses or other public servants from eligibility, all occupations where women are the majority of employees.⁵ In 1992 the High Court found that a school teacher on unpaid leave from the Victorian teaching service was ineligible for election to the Australian Parliament. Public sector employees have to resign before nominating to be a candidate, despite the risks involved. The discriminatory nature of this provision has been recognised but Constitutional change in Australia is very difficult to achieve.

A MASCULINE DOMAIN

The Westminster parliaments remained a masculine domain for a surprisingly long period, as we can see from examining both the actors in the parliamentary workplace and the institutional settings. There was resistance to the employment of women and they only became more visible in the parliamentary workforce in the 1970s. For example, women were not considered for the role of Hansard reporter even when it became increasingly difficult to find men with the required shorthand speeds and there was an abundance of women with such skills. Once they had done their 'turn' in the chamber, male reporters dictated their notes to female typists out of sight of the chamber.

In Australia this began to change in 1958, when a woman was first appointed as a Hansard reporter in the Western Australian Parliament. However, presiding officers in the upper and lower houses controlled what women reporters could wear and they were not allowed to wear trousers until 'trouser-gate' in 1994, when women parliamentarians wearing pants suits were able to object to this treatment of staff.⁶ At the federal level, the first woman was appointed as a Hansard reporter in 1969. Hansard reporters had traditionally been recruited from among male journalists but, as fewer became available with the necessary shorthand speeds, the field was extended to court reporters and—eventually—women.⁷

Other Westminster parliaments had moved a little earlier, with the UK House of Commons appointing a woman, Jean Winder, as a Hansard reporter as early as 1944. However, the UK Hansard Editor said: 'The only reason I thought of appointing a woman was that I was unable to find a man'. She undertook a long battle for equal pay, a battle she finally won with the help of Irene Ward MP in 1954.⁸ The Canadian House of Commons appointed its first woman Hansard reporter in 1957 while the New Zealand Parliament appointed two women as Hansard reporters in 1962. These were the first steps in a dramatic sex change in this occupational group, a sex change that had taken place many decades earlier outside parliament. In a valedictory speech continuing the concern with gender-appropriate clothing, the Hon Warren Freer commented:

I congratulate the Editor of Hansard on what appears to be a female take-over of a very old institution. I, for one, am grateful that all the men have been replaced by attractive women who come in here and, with their attractive clothing, brighten the sombre scene of Parliament.⁹

In Australia, Hansard reporters also became predominantly female, making up 35 of the 45 reporters (now called editors) in the Australian Parliament in 2023. The press gallery was another parliamentary institution changing gender, as discussed in Chap. 4. It has travelled a long way from its earlier history as part of a masculine domain. In New Zealand, the first woman admitted to the press gallery, in 1965, had to agree not to take advantage of the gallery's bar privileges.¹⁰

Women's absence from parliamentary chambers was 'over-determined', owing much to the expectations involved in legislative recruitment but also to the norms built into parliamentary institutions. For example, the distance between Government and Opposition in Westminster parliaments is supposedly two swords lengths—symbolising the expectation that men would put aside their swords to engage in the cut and thrust of verbal debate. The Serjeant-at-Arms (Sergeant-at-Arms in Canada) who assisted the Speaker in maintaining order, was historically the only person authorised to wear a sword inside parliament. Lyn Simons became the first woman Serjeant-at-Arms in the Commonwealth in 1984, with New Zealand following in 1985.

As we shall see in the next chapter, reference to the two-swords length has been used to normalise adversarial behaviour in the chamber. This contest occurs in a public space where female bodies and their reproductive roles were not expected to intrude.¹¹ The few women who were elected received reminders that they were 'out of place' and found it difficult even to find a toilet—in the Australian Parliament, Members' toilets were for men only until 1974 (and even later in the UK).

When women did succeed in entering the political arena they tended at first to be those who were not, or who had ceased to be, childbearing. The fact that they did not bring babies with them made it easier to treat them as honorary men—enabling 'women who do become Members of Parliament to be absorbed into the political body while preserving its masculinity'.¹² Women were expected to do the adapting to fit into a masculine institution with all its unstated but understood ground rules, rather than the institution adapting to meet their needs.

While the first women parliamentarians might be treated as honorary men in some respects, they were still expected to perform appropriate gender roles, for example specialising in welfare or social policy committees and pouring the tea rather than drinking beer with their male colleagues. Parliaments had members' and non-members' bars but women were rarely welcome in them. In the Australian Parliament there was a

heavy drinking culture and the non-members' bar was male-only until 1970, with women confined to a shut-off corner called the 'brown room' served via a hatch from the bar.¹³ Similarly in New Zealand it was 1971 before women staffers, press gallery and Hansard reporters were allowed into the bar.¹⁴ In the UK, women's informal exclusion from the bars and smoking rooms of the House of Commons meant that ministers had been reluctant for most of the twentieth century to accept women in the career-enhancing position of principal private secretary. Bars were places to pick up gossip and information useful to the minister, and informal barriers to women's presence in them was a career disadvantage.¹⁵

In the case of the Australian Parliament, the eventual replacement of a bar by a childcare centre was seen as highly symbolic of gender-sensitive change. It was referred to as such by the Australian delegation at the Inter-Parliamentary Union (IPU) Assembly in Québec City in 2012, when the IPU Plan of Action for Gender-Friendly Parliaments was adopted. It had taken years of campaigning—from 1983 to 2009—to gain the childcare centre, even though a new Parliament House had been opened in 1988 with a snooker room, squash courts, a swimming pool and a meditation room. As was noted by the Leader of the House when moving the motion for construction of the childcare centre, one difference between the childcare centre and the rest of Parliament House was that there would be no division bells that might wake babies, only the usual clocks with flashing red or green lights to alert parents who might be at the centre.¹⁶

The campaigns to convert the infrastructure of parliaments from that of masculine clubs took a similar form in many Westminster parliaments, with the billiard rooms—once standard—often being a bone of contention. Two billiard tables in the Australian Parliament were sold in 2010, a year after the opening of the childcare centre. In the Tasmanian Parliament, Green parliamentarians had also zeroed in on the anomaly of a parliament having two bars and a billiards room but no childcare centre, while the Western Australian parliament finally donated their billiards tables to Edith Cowan University (named after Australia's first woman parliamentarian) in 2022 after a period of loaning them out.¹⁷

THE TWO-PERSON CAREER

In the 1970s the gendered biases of legislative recruitment became part of the renewed feminist critique of male-dominated politics. For example, attention was drawn to the nature of politics as a two-person career—the

kind of career in which a wife is needed to contribute to the occupational performance of the husband.¹⁸ In politics this could include constituency work and public functions; sometimes political parties interviewed wives as well as male candidates for preselection, to see how suitable they were for the performance of these functions. A New Zealand backbencher wrote for the journal *Political Science* about how wives continued ‘the duty of a Parliamentary Member’ when the MP was away at Parliament in Wellington. He referred to the unpaid constituency work performed by his wife, in addition to attending to his correspondence, looking after the family and doing research for him.¹⁹

Husbands were not regarded as likely to perform such functions for a female candidate. Legislative recruitment was affected not only by this assumption but also by the failure of political parties and parliamentary arrangements to accommodate the caring responsibilities that women were expected to perform. Instead, these responsibilities were expected to generally preclude political careers. This was a self-fulfilling assumption as the evolution of the ‘full-time dedication norm’ for politicians affected how legislative work was organised and required availability for late-night sittings.²⁰

Turning to Australia, fifty years after the naming of the ‘two-person career’, journalist Annabel Crabb described the significant advantage for politicians of having a spouse to manage the household and support constituency commitments and campaigns. She argued that even today this advantage was enjoyed by vastly more men than women. While some men were now performing the supportive spouse role in a two-person career, it wasn’t always easy. When Anna Burke (later Speaker) became the second woman in the House of Representatives to have a baby, her husband, an intensive care paramedic, applied for parental leave. His application to the ambulance service received a hostile response, as he was ‘the first bloke who had ever asked for it’. Protracted negotiation was needed before he got the 12-months leave that enabled him to look after the baby and have Burke paged by the parliamentary switchboard when she needed to breast feed.²¹

While younger male politicians are now more likely to have an active role in caring for children, the carer role still weighs more heavily on women and it is often difficult to combine caring responsibilities and a political career.²² Unsurprisingly, in the Australian Parliament elected in 2013 women averaged only 1.2 children, compared with their male

colleagues who averaged 2.1. This difference is very similar to that found in the UK House of Commons in the same year.²³

The difficulties of balancing parliamentary work and family responsibilities are particularly evident where long distances and plane journeys are involved, such as for Australian politicians representing Western Australian electorates in the federal parliament.²⁴ Even when politicians are Perth-based rather than coming from a rural electorate, the flight to Canberra takes about four hours to cover over 3000 kilometres. In 2018 Labor frontbencher Tim Hammond, Member for Perth, resigned after only two years in parliament saying he couldn't continue with a job taking him so far from his baby and young children; no women with young babies have attempted it.

The stresses of the 'fly in fly out' nature of sittings in the Australian federal parliament, particularly for those with caring responsibilities, have led to calls for technological solutions. Many suggest that greater use of digital technology for remote participation could ease the strains of long-distance commuting. Standing orders for both the House of Representatives and the Senate allow for the use of 'electronic communication' to hold virtual committee hearings and it has been suggested that there be further encouragement of virtual participation.²⁵ While provision was introduced during the Covid lockdowns for remote participation in chamber debate as well as committee hearings, this did not extend to remote voting as in the Canadian House of Commons, where there have been calls for a hybrid model to become permanent.²⁶

We should finish here by noting that the concept of a 'two-person career' is different from recent proposals for job-sharing the role of parliamentary representative. These proposals, both in the UK and Australia, are intended to facilitate the balancing of paid work and care in parliamentary careers rather than their division between parliamentarian and spouse.²⁷

QUOTAS, CRITICAL MASS AND 'MAKING A DIFFERENCE'

In the 1990s, the participation of women in public decision-making and the presence of women in parliament was at last put firmly on the international agenda by the Beijing Platform for Action adopted by 189 countries at the United Nations' Fourth World Conference on women.²⁸ The participation of women in public decision-making became a measure of

democracy and the IPU's ranking of national parliaments by the representation of women became an important tool in democracy assessment.

The concept of 'critical mass' also took wing across the world. The concept (originally borrowed from physics) was that women not only needed to be present but present in sufficient numbers before they could have the desired transformative effect on political institutions. In 1997 the concept of critical mass was given authoritative form by the treaty body responsible for oversight of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It appeared in the CEDAW Committee's General Recommendation on Article 7 of the Convention:

Research demonstrates that if women's participation reaches 30 to 35 per cent (generally termed a 'critical mass'), there is a real impact on political style and the content of decisions, and political life is revitalized.²⁹

The concept of critical mass was very effective in mobilising support for gender electoral quotas among women's party organisations and advocacy networks at home and abroad. Multilateral standard-setting institutions such as International IDEA took on a monitoring role and provided guidance on best practice in making quotas effective.

By 2020 over 130 countries had adopted some form of gender electoral quota. Whereas there had been a rapid drop globally in the parliamentary representation of women at the beginning of the 1990s, there was now a slow but steady increase, even if subject to fluctuations at the national level. In Australia, the Labor Party's adoption in 1994 of a mandatory quota for preselections led to women forming over 50 per cent of the federal parliamentary party by 2022, including an increased number of non-European and Indigenous women. The quota was initially 35 per cent of winnable seats but was increased in 2012 and 2015. The conservative Coalition parties continued to oppose quotas despite public opinion being increasingly in favour and women formed less than 30 per cent of their party rooms after the 2022 federal election.

As encapsulated in the concept of critical mass, one of the important factors driving mobilisation over quotas was the belief that if only women entered parliament in sufficient numbers they would make a difference. There was often an expectation that women's family roles would translate into an approach to politics based more on consultation and consensus seeking and less on power-broking and head kicking: it was believed the

presence of more women would reduce the level of aggression found in Westminster parliaments where two teams face off against each other.

In Australia in 1994 a clear majority of voters agreed with the proposition that the increased presence of women would improve parliamentary behaviour.³⁰ However existing norms of parliamentary conduct render it difficult for women to perform effectively and make the hoped-for difference. As Janine Haines, the first woman leader of a parliamentary party in Australia said, it is hard to run onto the pitch playing soccer when everybody else is playing rugby. The persistence of these informal rules is exacerbated by the televising of parliament and privileging of the drama of confrontational politics by the electronic media.

THE STRUGGLE TO MAKE PARLIAMENTS FAMILY FRIENDLY

While the presence of women did not make an immediate difference to parliamentary practices, the inflow of younger women from the 1990s did bring pressure to accommodate the realities of reproduction and child rearing. One example concerns whether infants can be present in parliamentary chambers. Under traditional Westminster rules, ‘strangers’—people who are neither elected members nor parliamentary officials—are not allowed on the floor of the chamber, a rule originally intended to keep out the monarch. By 1989 the term ‘stranger’ was replaced by the term ‘visitor’ in the standing orders of the Australian Senate, while the Australian House of Representatives and the UK House of Commons followed in 2004.

The issue remained of whether infants being breastfed would be removed, whether as ‘strangers’ or ‘visitors’. Given the promotion of breastfeeding as a public health measure, there was uproar over a case in the Victorian Parliament in 2003, when a baby being breastfed by a Labor MP was treated as breaching the rule and the MP was asked to leave the chamber. To pre-empt a similar occurrence in the Australian Senate, and following a motion from young Senator Natasha Stott Despoja, an exemption from the prohibition of visitors on the floor of the chamber was introduced into the standing orders in 2003 for a ‘Senator breastfeeding an infant’.

In 2009, however, the President of the Senate ruled that a two-year-old toddler carried in for a vote by Greens Senator Sarah Hanson-Young should be removed and the child was carried out crying. At the time, the majority of the Senate Procedure Committee decided it would be undesirable to extend the breastfeeding exemption to cover Senators caring for infants because the scope might be too broad. The standing orders were

finally amended in 2016 to add an exemption to the prohibition on ‘visitors’ for a ‘Senator caring for an infant briefly’.

The Australian House of Representatives adopted a different approach to breastfeeding. In 2008 its standing orders were amended to allow nursing mothers to vote in divisions by proxy—giving their vote to the relevant party whip. However, in 2015 the Chief Government Whip was unaware of the provision for proxy voting introduced under the previous Labor Government (a good example of remembering the old and forgetting the new). There was a furore when he advised a government frontbencher to consider expressing more milk after she missed a division due to breastfeeding.³¹

The Procedure Committee of the House of Representatives subsequently recommended more adequate provision for infants, deciding that as fathers were increasingly involved in the care of their infants, both male and female members caring for infants should be able to bring them into the chamber. This went beyond the Senate’s provision for breastfeeding and specifically included bottle feeding.³² The House of Representatives standing orders were amended accordingly in 2016 to specify that ‘a visitor does not include an infant being cared for by a member’. Transformation was happening, although perhaps not as fast as in the New Zealand House of Representatives where the Speaker was seen holding and feeding members’ children while presiding over parliamentary debates.³³

In addition to recommending provisions for fathers, the Australian House of Representatives Procedure Committee noted the World Health Organisation recommendation that babies be exclusively breast-fed until six months. Given the role of parliamentarians made it difficult for them to take extended leave, there was a need to support members to continue to breastfeed after they returned to work. Meanwhile, in 2019, Greens Senator Larissa Waters became the first Senator to breastfeed in the Chamber and the first to do so while proposing a motion. Breastfeeding in the once masculine domain of parliament continued to be newsworthy but no longer a cause for exclusion.

The question of parental leave remains a difficult one for parliamentarians given their role as elected representatives, and it is rare for them to have the same leave entitlements as other citizens. In Australia, the 2021 *Review of Commonwealth Parliamentary Workplaces* suggested that to better accommodate the needs of parents and carers ‘good practice parental leave entitlements’ be extended to parliamentarians. At present standing orders require that the relevant chamber vote on a motion requesting

leave for a specified purpose and length of time, rather than it being an entitlement. The Parliamentary Library found that the 13 MPs recorded as taking maternity leave between 1999 and 2016 took an average leave of 5.6 sitting weeks.³⁴ The first MP to give birth while an MP, Ros Kelly, famously came back to parliament with an air cushion one week after giving birth to her first child in 1983. In New Zealand, Whetu Tirikatene Sullivan had similarly returned to parliament less than two weeks after a caesarean birth in 1970, anxious that she should not disrupt parliamentary proceedings.

In Australia it is now suggested that as well as making clear that a base level of parental leave is an entitlement, such leave should automatically trigger an entitlement for the other side to provide a pair if a Government or Opposition member were involved.³⁵ In the case of the 13 MPs who took maternity leave in 1999–2016, the granting of pairs was very inconsistent, with no pairs granted in 2006–2007. If an MP on leave comes back into the chamber, their leave automatically comes to an end. In New Zealand the introduction in 1996 of party voting via party whips has made this issue easier to resolve through the provision of proxy votes to those on compassionate leave during the first six months of a child's life or 'evening leave' during the first 12 months.³⁶

Proxy voting has also been introduced in the UK for MPs with newborn children. Nonetheless, parliamentarians who give birth while in office need great resilience to deal with both physical and emotional demands. The first Australian Senator to give birth, Jacinta Collins, experienced little sympathy if she missed a division because of her baby: 'The Black Rod at the time instructed security guards to deny me access if I had [the baby] with me'.³⁷ In the ACT Legislative Assembly, Katy Gallagher (later Chief Minister) was accused of being 'a part-time minister' when she returned from six weeks maternity leave bringing her baby to work.³⁸

One ongoing issue in Australia concerns so-called 'family reunion' travel to cover, for example, travel by a spouse or carer and a dependent child to Canberra (see the discussion above of the problems posed by long-distance commuting). The travel entitlements of parliamentarians are always controversial, contributing to popular perceptions of politicians having their 'snouts in the trough'. In Australia such entitlements are now managed by the Independent Parliamentary Expenses Authority to reduce this odium. In Canada, MPs have been reluctant to use their travel points to bring partners and children to Ottawa for the same reason. As has been said in relation to New Zealand: 'The idea of family-friendly parliaments

competes with the idea that parliament is an already entitled workplace for an elite class who need to be careful in instituting “additional benefits” for themselves’.³⁹

SITTING HOURS AND THE SITTING CALENDAR

Another example of the struggle to make parliaments family friendly concerns sitting hours and the sitting calendar. This is again one of the many issues to which the IPU has sought to direct attention, in its Plan of Action for Gender-Sensitive Parliaments, recommending that parliaments:

Rearrange their sitting hours (e.g. by establishing compressed sitting weeks, creating schedules that start early, avoiding late voting, and aligning sitting times with the school calendar) so that parliamentarians can return to their electorates and spend more time with their families.⁴⁰

While there are some complex practical issues to be resolved, resistance has also come in the name of traditional parliamentary practices. One of the many arguments against women’s entry to parliament was that they ‘would not have the strength or stamina to cope with all-night sittings of the House’.⁴¹ In the UK, attempts to institute morning sittings and limit night ones began in the 1960s but were resisted for decades—particularly by lawyers who wanted to be able to appear in court in the morning. In the Australian Parliament, late-night sittings were also common. In the 1970s, MPs and Senators were provided with pillows and blankets so ‘they could snooze in their offices during all-night sittings’.⁴² It is not clear what provision was made for Hansard reporters and other staff required to be in attendance while parliament was sitting.

Such sitting hours came increasingly under challenge as younger women entered parliament. For example, after the Victorian Parliament had been sitting until midnight, Lynne Kosky, an Opposition frontbencher with children, appealed for family-friendly sitting hours to be introduced. In response, the Victorian Premier made a traditional defence of existing parliamentary arrangements:

It’s a bit rich to ask that the whole parliamentary procedure ...be changed to accommodate your requirements, which were obviously there when you voluntarily offered to serve. You’ve got to make a deliberate decision as to

whether you want to spend time, while your children are young, with them or whether you want to try and mix the two careers.⁴³

In 2022, after the findings and recommendations of the *Review of Commonwealth Parliamentary Workplaces* and the election of a new Labor Government, progress was made in the Australian Parliament on the issue of more family-friendly sitting hours. On the first sitting day of the new parliament the standing orders of the House of Representatives were changed to include earlier starts on some sitting days and no votes after 6.30 pm to enable those with family responsibilities to go home. Similar changes were made to the Senate standing orders. Family-friendly sitting hours were seen as having the additional advantage of limiting the heavy consumption of alcohol associated with late-night sittings—a known risk factor for sexual harassment and sexual assault.

Such changes benefit not only parliamentarians but also staffers with caring responsibilities, but they can be short-lived. For example, family-friendly sitting hours had been introduced previously in the Australian Parliament but in large part did not survive a change of government in 1996. Similarly in Western Australia, the first woman Premier, Carmen Lawrence, introduced family-friendly sitting hours in 1992 but they were dropped when she lost government.

In a country such as Australia, where parliamentarians are expected to live in their electorate, there have always been counterarguments from those representing rural and remote areas who would prefer longer sitting hours and a shorter sitting week, enabling them to fly home sooner. This has also been true of countries such as Argentina, where ‘deputies from the provinces most distant from the City prefer to compact the work into three days, even though the pace of the sessions is “inhuman”’.⁴⁴ As mentioned above and as reinforced by the experience of Covid lockdowns, many now advocate the greater use of digital technology for remote parliamentary participation, as one approach to accommodating caring responsibilities.

The clash of parliamentary sitting days with school holidays is another issue where some progress has been made. Reports by both the IPU and the Organization for Co-operation and Security in Europe have found that aligning the parliamentary calendar to avoid clashes with school holidays is the most widely adopted of three family-friendly practices, the others relating to sitting hours and fixed times for votes.⁴⁵ Progress has occurred despite difficulties for national parliaments where subnational

jurisdictions have school holidays at different times (for example clashes with Scottish school holidays in the UK). The Australian Parliament has noted clashes with school holidays in the annual sitting calendar since 2000. In the period to 2011 there was an average clash of 18 sitting days with school holidays in the House of Representatives and 15 days in the Senate. Since 2012, however, when the IPU Plan of Action was agreed, there was an average clash of only five days in the House and six days in the Senate.⁴⁶

PARLIAMENTARIANS' OFFICES AS FEMALE, BUT PERILOUS, SPACES

While parliament itself has traditionally been a masculine domain, the group of staff supporting ministers and parliamentarians has long been mainly female. Australian studies of ministers' offices in the 1970s and early 1980s showed that women comprised between 59 and 66 per cent of all staff. They were mainly in administrative roles such as receptionists, diary managers, typists and office managers.⁴⁷ In 1973 Peter Wilenski, adviser to the then Prime Minister, said, 'The House consists of a huge male superstructure supported by an army of women. ... A lot of these women are very intelligent. Rather than becoming senior office holders they remain secretaries. The system exploits these highly skilled people at a cheap price'.⁴⁸

Today women continue to outnumber men in ministerial and parliamentary offices and in constituency offices. In Australia in 2021, 60 per cent of staff working in the local offices of parliamentarians were women and 57 per cent of ministerial staff were female. However, men continued to dominate the senior ranks in ministers' offices, holding 68 per cent of senior positions.⁴⁹ In recent years women have moved into the highest job in ministers' offices (in Australia, known as the chief of staff) with 35 per cent of Australian ministers' offices headed by women. Four of Australia's recent prime ministers employed a woman as their closest and most trusted adviser.⁵⁰

The backstage nature of the staffer job gives women a certain freedom of action not enjoyed by female politicians. The hidden nature of their influence means that female advisers are less likely to provoke public outrage for acts of dominance or combative behaviour that transgress expectations of women's gender roles. Their supporting and ancillary role

means that women can occupy these positions without disrupting traditional power relations. However, their power is formally limited and ‘practically perilous’ as they can be subject to harsh gender-based criticism if perceived to transgress ancillary roles.

In 1968 Australian Prime Minister John Gorton scandalised his critics when he appointed 22-year-old Ainsley Gotto as his principal private secretary. She attracted intense media attention and was one of the most talked about people in Australia at the time. When appointed, she was described as ‘pert, freckled and bubbling with self-confidence’ and photographed cradling a kitten. Yet she was also criticised as ‘cold blooded’ and ruling with ‘a ruthless authority’. After Gorton resigned, one headline read: ‘PM listened to girl more than to his cabinet’.⁵¹ Gotto was not only young but had stepped outside the ancillary role played by most women in parliamentary offices. In 1969 a journalist wrote: ‘If Ainsley Gotto were 43 rather than 23 years old she might be just another old battleaxe among that rather formidable brigade of maiden ladies mother-henning their bosses with teapot, typewriter and a telephone switch in the Ministerial suites in Parliament House, Canberra’.⁵² Almost 50 years later, Australian Prime Minister Tony Abbott (2013–2015) praised his chief of staff Peta Credlin as ‘the smartest and the fiercest political warrior I have ever worked with’. Yet she faced savage criticism for her ‘political warrior’ approach, which appeared to emasculate her principal.⁵³ Both women faced persistent rumours that they were having affairs with the prime ministers they worked for.

The extreme power differential between parliamentarians and their staff, the precarious nature of their tenure and the secrecy demanded by party loyalty, creates the conditions for sexual misconduct, bullying and discrimination. These features of the parliamentary workplace have long existed for parliamentarians’ staff.

UNFINISHED AGENDA

In Australia, despite the commitment of the new Labor Prime Minister to a ‘family-friendly parliament’ the family-friendly sitting calendar had to be revised almost immediately in 2022. On the death of Queen Elizabeth II, parliament was suspended for a week, leading to a clash with nationwide school holidays. And despite the Prime Minister’s commitment to a kinder, gentler parliament, partisan mudslinging, including the weaponisation of material given to police during a sexual assault trial, soon resumed.

In this chapter we looked at the way social expectations concerning women's family responsibilities and gender roles long constrained their entry to parliament. The few women elected to public office tended to be those who had completed their reproductive roles, meaning that parliaments could continue the norms and practices dating from when they were all-male institutions. Traditional roles and expectations also shaped the work women performed as parliamentary staffers.

The adoption of party quotas in Australia, as in other parts of the world, resulted in the increased presence of women in parliament, and most notably younger women, from the 1990s. This led to scenes that attracted international attention, such as the sight of a breastfeeding Senator. However, while there was gradual institutional acknowledgement that elected representatives and the growing number of women staffers might have caring responsibilities, there were still many issues to be addressed. In the next chapter we look at Westminster conventions and institutional norms that made it difficult to acknowledge the issue of sexual harassment, despite its prevalence.

NOTES

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Institutional Norms and the Cost of Doing Politics

Abstract Women entering non-traditional workplaces commonly experience hostility in the form of sexual harassment. The parliamentary workplace has additional features that make reform difficult, despite feminist standard-setting in transnational bodies. Difficulties include applying employment law to MPs who are not employees in any real sense themselves but have almost complete power over their staff. Adversarial traditions normalise aggressive conduct rather than a respectful workplace and also make it likely that any complaint will be weaponised politically. Many are silenced by fear that to complain will damage their party as well as their own career. Another obstacle to reform has been the tradition of parliamentary privilege, the right of parliaments to regulate their own affairs free from external interference. This has held back the introduction of professional employment standards, on the grounds that the best form of accountability for parliamentarians is at the ballot box.

Keywords Parliamentary workplace • Misogyny • Sexual harassment • Adversarialism • Gender card • Parliamentary privilege

In many western parliaments, including our Westminster sample, women have now achieved the parliamentary presence (‘critical mass’) expected to trigger institutional change. However, longstanding parliamentary norms, including those that assumed the existence of wives to take care of family

responsibilities, proved difficult to budge. Quite apart from the lack of family-friendly working conditions, increased presence also raised questions of whether women found themselves in a work environment that was actively hostile to them.

In entering a workplace that was traditionally masculine, women faced forms of resistance also experienced by women entering, for example, the construction or mining industries. This chapter starts with the more generic forms of resistance to women entering male domains before moving on to the unique nature of the parliamentary workplace and specific elements posing obstacles to reform.

The unique nature of the parliamentary workplace relates to the unusual nature of the employment relationship between parliamentarians and their publicly funded staff—where extreme power imbalance can contribute to patterns of misconduct. The relationship is further complicated by party loyalties that bind politicians and staff and may make complaining of misconduct difficult. Yet, to comply with the new international norms promulgated by the Inter-Parliamentary Union,¹ political offices should not be regarded as private fiefdoms but rather as an important part of democratic machinery, managed in accordance with democratic values of diversity and inclusion.

After identifying the nature and problems of the parliamentary workplace, the chapter then analyses the formal and informal norms that create resistance to independent oversight of members' conduct, in particular the role of parliamentary privilege and of Westminster adversarialism. While originally intended to protect parliamentarians from the interference of monarchs and enable freedom of speech, the tradition of parliamentary privilege has resulted in long-standing resistance to regulatory oversight of the conduct of elected representatives, including their conduct as employers.

THE PARLIAMENTARY WORKPLACE

There is a long history of resistance to women entering workplaces and kinds of work particularly associated with masculine identity. Indeed, a recent study has compared how such resistance created a hostile environment for women in both the Australian construction industry and the Australian parliament.² As in other non-traditional workplaces, resistance in the parliamentary workplace often takes sexualised forms such as sexual harassment. There is also a privileging of masculine performance such as aggressive and combative debate.

While similar forms of resistance to women may be found across non-traditional industries and employment sectors, the parliamentary workplace has been distinguished by the unique nature of its employment relationships. In most countries, elected representatives are not covered by anti-discrimination legislation because they are not considered employees.³ The relationship between parliamentarians and their staff also has unique characteristics.

In principle, parliamentarians hold their tenure from voters and do not have an employer themselves. Unless they are found guilty of an indictable offence it is very difficult to remove them. They are provided with funding for staff to assist them in their representative duties and have traditionally had complete hire and fire power over such staff. This power over staff is justified in terms of the independence of elected members and their right to recruit on the basis of political affinity or trust.

The role of parliamentarians as employers has become increasingly important as the number of political staff has grown, paid for from the public purse. While researchers are now paying increased attention to parliament as a workplace for parliamentarians, so far there has been less attention paid to parliamentarians as employers. In the Australian Parliament, every parliamentarian is now entitled to five electorate staff but on top of that some have so-called ‘personal employees’. In May 2023 the government had around 470 of these personal employees, the Opposition 102, the Australian Greens 20, cross-benchers one or two (reduced from four under the previous government). Employment as a political staffer is an increasingly important route to a career in elected office and this route can be made hazardous by a lack of the protections applying to other workplaces.⁴

Reluctance to interfere with the hire and fire power of parliamentarians, even where staffers are employed centrally as in New Zealand, creates a huge power imbalance between parliamentarians and their staff. There has often been a lack of the kinds of protection from misconduct found in other workplaces. For example, it was only in 2021 that the Australian *Sex Discrimination Act* was amended to make it clear that parliamentarians were protected from sexual or sex-based harassment in their workplace. The NSW Anti-Discrimination Act had been amended in 1997 to ensure Ministers and MPs were ‘liable for their acts of sexual harassment’, while the South Australian Equal Opportunity Act was similarly amended in 2020.

When the Pestminster scandal was breaking in the United Kingdom (UK) in 2017, the *New Statesman* magazine suggested that the main victims were staffers, directly employed by their MP and at the ‘bottom of the food chain’, relying on contacts and references to move up it.⁵ Sexual misconduct was explained by the unique power imbalances in parliamentary employment, lack of effective complaints mechanisms and the silencing effects of party loyalty.

Both the formal issues and informal issues (such as long working hours, high pressure and the blurring of personal and professional boundaries) have contributed to patterns of sexist misconduct. The 24-hour news cycle enabled by the Internet and constant media scrutiny further adds to the pressure on politicians and their staff.

The norm of providing alcohol for work-related events has also been singled out as contributing to the blurring of personal and professional boundaries and vulnerability to predatory behaviour.⁶ Such events are particularly numerous for politicians in western countries and there is high expectation that staff will also attend these events for purposes of networking and intelligence gathering. Diane Abbott, the first black woman elected to the UK parliament, summed up the relationship of alcohol to sexual harassment in the following way:

It was partly due to do with [the] idea of all these men away from home, it was partly to do with the fact there were eight bars and the very long hours and the bars were open for as long as we’re sitting, and partly with the notion that what happens in Westminster stays in Westminster.⁷

It may be argued, however, that alcohol, long hours and being away from home are more of an excuse for poor behaviour than an explanation and that the power imbalance, lack of accountability and general tolerance of aggression and microaggression is more important.

Exacerbating workplace problems has been the fact that many newly elected MPs with hire and fire powers have little or no previous experience as an employer. The New Zealand parliamentary survey of bullying and harassment found that, in the perception of many respondents, the power imbalance is not only between parliamentarians and their staff but also between parliamentarians and the legal employer of these staff, in that country the Parliamentary Service. For example, one staffer commented: ‘HR said to me, “at the end of the day, MPs don’t change. We can’t tell them how to treat their staff because they’re elected”’.⁸ In Australia, a

2021 union survey found staffers had similar beliefs about the reluctance of HR in the Department of Finance to stand up to MPs guilty of misbehaviour.⁹

ADVERSARIAL POLITICAL CULTURE

Feminist institutionalism has drawn attention to the gendered ‘logic of appropriateness’ shaping expectations of behaviour within institutions. The adversarial political culture of Westminster parliaments is a good example of the gendered logic underpinning institutional norms. As we saw in Chap. 1, these parliaments are organised around a contest between government and Opposition, rather than consensus-seeking among a wider group of players. Politicians are judged by their capacity to dominate the chamber but such aggressive and combative performance is not regarded as gender-appropriate for women.

If women engage in the more consensus-seeking styles expected of them, this can be regarded as weak in terms of parliamentary performance and judged adversely. Collaboration across party lines on policy issues can also cast doubt on the strength of party loyalty. Such policy work can be devalued because it does not result in a ‘win’ for the particular party. Cross-party collaboration among women on issues such as access to abortion has been treated with particular suspicion.¹⁰

It has been argued that the shared Westminster tradition of adversarial politics not only favours normative masculinity but also contributes to a culture of bullying and sexual harassment.¹¹ The gender performance expected in an adversarial political culture is one associated with alpha males, achieving dominance over those on the other side of the chamber and ‘destroying’ them. The Opposition is expected to fulfil its role by ‘muscling up’ against the government. Jacinda Ardern, later an acclaimed prime minister, was given a poor rating in Opposition for ‘failing to claim scalps’.

In 2001, the Commonwealth Parliamentary Association led the way in observing the problems posed for women by the highly adversarial political culture associated with Westminster majoritarianism. As Australian Minister Steve Ciobo was to say:

...the entire nature of politics, our Westminster system is an adversarial system. Now, the table is broad enough to avoid two swords from touching. I mean, that’s the history and the political culture, not only of Australia, Canada, the UK.¹²

This defence of adversarial conduct was in response to accusations of bullying and intimidation of female colleagues during a leadership contest in the Liberal Party; it was an attempt to frame such conduct as gender-neutral rather than as part of a highly gendered institutional legacy made up of both written and unwritten rules.

As seen in this example, an adversarial political culture reinforces a behavioural norm associated with masculinity, to the detriment of women or the norms of a respectful workplace. It normalises both aggressive conduct and the partisanship entrenched in Westminster architecture, the supposed two swords length separating government and Opposition.

In relation to hostile interjections, the 1989 edition of Australia's House of Representatives Practice commented that: 'Modern thinking is that, as the House is a place of thrust and parry, the Chair should not necessarily intervene in the ordinary course of debate when an interjection is made'.¹³ In New South Wales, a government minister proclaimed that he was mystified at the complaint by an Opposition front bencher about barking and growling noises made whenever she was speaking in the chamber. His spokesman said, 'it's all part of the rough and tumble of political life'.¹⁴ In relation to hostile sotto voce commentary, such as that experienced by Australian Prime Minister Julia Gillard, the presiding officer may not even be able to hear the interjections.

The political culture associated with the 'robust debate' or 'cut and thrust' of Westminster parliaments extends beyond the chamber and can create unsafe committee hearings, where witnesses are subjected to bullying as though they are political opponents rather than civil society participants in a representative process. The norms and practices of the chamber can also 'inadvertently seep out into other areas of the parliamentary workplace'.¹⁵ As a participant told the Jenkins Review of Commonwealth Parliamentary Workplaces:

You're constantly in that adversarial environment...in Estimates or at Question Time, or whatever, just constantly arguing and yelling and screaming across the Chamber at people, as that's how we get our job done. So if it's acceptable here when the public is watching, it must be acceptable in my office when the door's closed.¹⁶

In this way, the political dynamics of majoritarian systems, clearly visible in Question Time, contribute to misconduct in the parliamentary

workplace. They also inhibit dealing with such behaviour in other than party political terms. A complaint may be construed as a political problem to be hushed up or as political ammunition to be used against opponents. Those who wish to complain are likely to find that protecting the party against criticism from political opponents trumps commitment to any kind of equality in the workplace. It is important to note that most perpetrators are members of the woman's own party.¹⁷

These political dynamics apply to power struggles within political parties as well as between them. In trying to explain the silence that had prevailed over sexual harassment of staffers in the UK, the *New Statesman* wrote in 2017 about how such internal political struggles exacerbated the party loyalty issue. In the Labor Party, staffers did not want to risk handing a seat to another faction, while among the Conservatives there was a similar dynamic: 'better a groper than a Remainer. And for Remainees, better a sleaze than a Brexiteer'.¹⁸

The issue of partisanship is not just a matter of parties (or party factions) regarding harassment complaints as a political problem or something to be weaponised rather than resolved. It is also a matter of party loyalty on the part of the staffer. In New Zealand, the Francis Report found that personal party affiliation and the risk of a complaint being used against their party often provided 'a disincentive to disclose'.¹⁹

The UK inquiry by Gemma White QC into bullying and harassment of MPs' staff found that even after the adoption of a new independent complaints procedure, staffers believed that making a complaint would damage the staffer's political party, their MP's chance of re-election or their own career prospects. A young male intern gave evidence that he would never lodge a formal complaint about the men who had sexually harassed him because he wanted a career in politics and as a young working-class person with no connections 'networking in Parliamentary bars is our only route'.²⁰

The Australian Jenkins Review found widespread fears about reporting due to the 'win-at-all costs culture'. It is notable that special legislation had to be passed making submissions to the inquiry exempt from Freedom of Information (FOI) requests before staffers felt comfortable participating. The general belief was that if a sexual harassment complaint became public it would be weaponised against the party and 'threaten the whole war effort'.²¹

ADVERSARIALISM AND THE ‘GENDER CARD’

The sexual vilification of Australia’s first woman prime minister, Julia Gillard, became notorious around the world thanks to her powerful ‘misogyny speech’ in 2012. The YouTube video of the speech went viral and was watched by two million viewers within the first ten days and millions more in subsequent years as it became a hit on TikTok. Many adaptations, memes, music, dance and eventually a stage play followed, inspiring young women to express their own righteous anger about sexism they had experienced.

However, when the misogyny speech was delivered, it was interpreted by the parliamentary press gallery almost solely in instrumental terms as a tactic in partisan warfare over the speakership of the House of Representatives. In Australia, media companies have traditionally been given accommodation in parliament house. It has been suggested that the physical location of the media organisations cheek by jowl with each other in the gallery contributes to common thinking and an entrenched uniformity in coverage.²² Although there was a growing number of women in the parliamentary press gallery, they accepted the kind of framing of partisan politics adopted by their male colleagues.²³

The misogyny speech was framed by both the Opposition and the press gallery as playing the ‘gender card’ or engaging in a gender war in order to distract attention from the political problems of the government. In other words it was framed as an example of the so-called ‘Australian political strategy’ of throwing a dead cat on the table so that everybody would discuss that rather than the issue causing grief. The actual subject of the speech, sexism in politics and the Prime Minister’s anger over it, was dismissed, in favour of a more familiar narrative of adversarial politics. There were, of course, honourable exceptions, such as the editorial cartoonist Cathy Wilcox (see Fig. 3.1).

The tut-tutting in the mainstream media about reference to sexism in politics (‘We expected more of Gillard’) was despite the obscene depictions of Gillard that had been appearing in social media and the cartoons of her naked, wearing a strap-on dildo that had been emailed to federal parliamentarians. The Opposition Leader had famously spoken to carbon tax protesters in 2011 in front of banners reading ‘Juliar...Bob Brown’s Bitch’ and ‘Ditch the Witch’. Other violent and sexualised language used to describe Gillard, for example in the Facebook page devoted to the ‘Worst PM in Australian History’, was even more explicit and included



Fig. 3.1 Wilcox, The Gender Card, *Sun-Herald*, 14 October 2012. (Courtesy Cathy Wilcox)

references to her genitals and menstruation. Nonetheless, some Opposition women suggested that by drawing attention to such sexist vilification the Prime Minister was presenting herself as a victim and therefore was automatically a loser in the political contest.²⁴

When she became Australia's first woman prime minister, Gillard had studiously avoided reference to gender, claiming instead that it was a 'great day for redheads'. Following the 2010 federal election she forgot to allocate the status of women portfolio in the new administrative arrangements and it had to be hastily added the next day after an outcry.²⁵ Her caution in drawing attention to gender issues was to prove well justified.

Within the dominant narrative of the parliamentary press gallery and the Opposition, in delivering the misogyny speech, Gillard was responsible for beginning a gender war that then rebounded on her leadership. The Leader of the Opposition accused her of playing the victim card. Women Cabinet ministers who defended her were described by Opposition members as the 'handbag hit squad', suggesting it was illegitimate for senior ministers to openly discuss sexism in politics and confirming received wisdom that women in public life will be penalised for doing so.²⁶

Ten years later, Gillard was to say that with the benefit of hindsight she should have called out sexism and misogyny earlier, rather than relying on her performance as Prime Minister to allay doubts about having a woman in the lead role.²⁷ The attempt to avoid being defined by gender rather than policy achievements may have contributed to the uncontested build-up of sexist campaigning during her prime ministership. This was certainly suggested by Senator Sarah Hanson-Young, who later said that the Prime Minister ‘not standing up, not calling it out, sent a message to everyone “if this is happening to you keep mum”’.²⁸

As we shall see, women ministers from the Gillard government have expressed the same regret that they didn’t speak out sooner. According to Labor political adviser, Bruce Hawker, the Opposition Leader’s sexist comments had already been tested on focus groups but rather than using them in parliamentary debates: ‘the response of many female ministers was to stand back’.²⁹

It is remarkable in hindsight that the sexism to which Julia Gillard was subjected did not result in the kind of political mobilisation that occurred later, after the arrival of #MeToo. Partly this was to do with the role of mainstream media. At the time, women political journalists were influenced by the association of a gender perspective with less serious ‘women’s issues’ journalism. Serious political journalists adopted a style detached from their own lived experience as women.³⁰

However, some were already bringing a gender perspective to bear on the treatment of Gillard in the months before the misogyny speech. Dr. Anne Summers, herself a former president of the parliamentary press gallery as well as a former head of the Office of the Status of Women, delivered a powerful public lecture that reached tens of thousands online. She argued that gender-based vilification of Gillard infringed ‘her rights at work’. Unlike other workplaces complying with anti-discrimination legislation, the Australian Parliament had failed to take any action over this discriminatory treatment.³¹

At the same time an online feminist campaign called ‘Destroy the Joint’, co-founded by journalist Jenna Price, had sprung into life on Twitter and Facebook. The Prime Minister had announced funding for a women’s leadership program in the Pacific region, saying that societies could only reach their full potential if women were participating politically. A prominent talkback radio host had taken offence at this, saying that women in leadership positions in Australia were ‘destroying the joint’.

The DestroyTheJoint Facebook page, created by union secretary Sally McManus, later national secretary of the Australian Council of Trade Unions, was dedicated to people ‘who are sick of the sexism dished out to women in public life in Australia, whether they be our Prime Minister or any other woman’. Its witty images of women destroying the joint ‘using only their gender’ attracted a large following. When the talkback radio host further suggested that the Prime Minister’s recently deceased father had ‘died of shame’ because of the ‘lies’ told by his daughter, Destroy the Joint promptly ran a successful online campaign to persuade companies to stop advertising on his program.³²

Although such online campaigning over sexism in politics was a forerunner of #MeToo it didn’t result in the same kind of movement mobilisation and electoral agenda-setting as came ten years later. A book published soon after the demise of the Gillard government raised the question of why such mobilisation had not occurred despite Anne Summers ‘galloping over the hill’ and despite ‘the magnificently anarchic destroy the joint crew’.³³ The suggested answer related to policy disappointments with Gillard over single parents and asylum seekers. The revelations of 2020–2021 did not have the same conflictual policy dimension for feminist activists. And, as we shall see in the next chapter, this time senior women journalists in the parliamentary press gallery were to help turn sexual misconduct in politics into a serious political issue.

PARLIAMENTARY PRIVILEGE

Westminster adversarialism and its taken-for-granted status as the fulcrum of politics meant that gendered mistreatment could be rendered invisible or at least not an appropriate subject for public commentary. In the mainstream media, Prime Minister Gillard was accused of a misstep in presenting as a gender issue what was just part of the cut and thrust of politics.

Another major obstacle to reform of the parliamentary workplace in the Westminster parliaments has been the formal and informal institutionalising of the principle of parliamentary privilege. Over time this has contributed not only to the protection of parliamentarians but also, it is often said, to a sense of entitlement. The elected status of parliamentarians has been seen as elevating them well above the ‘unelected bureaucrats’ who serve them. The power of parliamentarians as employers and democratic

traditions that emphasise parliamentary privilege have combined to create ‘a toxic environment of deference and impunity, which some Members have exploited’.³⁴

The principle of parliamentary privilege developed in the course of the struggle between crown and parliament in seventeenth-century England. Article 9 of the 1689 Bill of Rights said: ‘That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament’. In the Westminster tradition, parliamentary privilege has been understood to protect both freedom of speech and the right of each house of parliament to regulate their own affairs and the conduct of members without external interference—the principle of ‘exclusive cognisance’. As the 2nd edition of the *Procedure and Practice of the Canadian House of Commons* put it: ‘the House of Commons retains the right to regulate its own internal affairs and procedures, free from any interference from the courts...’.³⁵

In Australia, Article 9 of the Bill of Rights has applied to the Commonwealth Parliament thanks to Section 49 of the Australian Constitution, which states that the ‘powers, privileges and immunities of the Senate and of the House of Representatives, and of the members and committees of each House’ shall be such as declared by the new parliament and until then shall be those of the UK House of Commons. The ‘powers, privileges and immunities’ of each house, its members and committees were eventually given partial legislative form in the *Parliamentary Privileges Act* of 1987, while in other respects immunities derived from the UK House of Commons continued in force. New Zealand followed Australia with a *Parliament Privileges Act* in 2014, also intended to clarify the meaning of the Bill of Rights provisions.

As we shall see in the next chapter, despite the increased diversity found in Westminster parliaments, they have been slow to proscribe sexist or exclusionary language as unparliamentary—because of fears it would be contrary to the freedom of speech guaranteed by parliamentary privilege. The tradition of parliamentary privilege and immunity from outside interference is a tradition extending well beyond legislative provisions and has contributed to long delays in the adoption of codes of conduct similar to those adopted in other professions. In New Zealand, a previous Speaker noted with sadness the shouting matches in the House and the difficulty of achieving agreement to a code of conduct enabling all voices to be

heard, due to ‘the long tradition of resisting regulatory intrusions into matters that govern the working of Parliament and the conduct of members’.³⁶

The idea that the best form of scrutiny of parliamentarians is free and fair elections is longstanding in Westminster parliaments and frequently used to defend the right of parliament to manage its own affairs. However, a lack of professional standards means the lack of a basis against which to measure the conduct of parliamentarians and it is commonly found that there is a gap between the views of the public and those of politicians regarding the importance of ethical conduct.³⁷

In 1995 the UK was the first to move from self-regulation to a more developed set of rules and independent oversight. Dame Laura Cox suggested there had been a ‘gradual dawning’ that the ballot box was not a sufficient mechanism for holding members to account. She said: ‘Over the centuries the two Houses of Parliament have assumed the responsibility and right to define and maintain their own standards of conduct. However, after serious public concerns about a decline in standards of behaviour, the Nolan Committee considered that a significant independent element would bolster public confidence in the ability of the House to regulate itself effectively’.³⁸

This important step taken by the UK, took the form of a code of conduct and an independent Parliamentary Commissioner for Standards. It has been described by Canadian political scientists Tracey Raney and Cheryl Collier as establishing a regulatory path dependence.³⁹ In other words, after centuries of self-regulation and fending off any intrusion a precedent had been established for independent oversight of parliamentary conduct. The Canadian House of Commons eventually followed suit in 2004 with a code of conduct and an Ethics Commissioner but provided reassurance that its code was ‘a manifestation of the House’s right to regulate its internal affairs’. In general, in the Westminster parliaments it has been regarded as of paramount importance that any code of conduct be incorporated in standing orders rather than being legislated, which would transfer jurisdiction over parliamentarians’ behaviour to the courts.

While new rules and oversight were being established in the UK and Canada, they were concerned with financial probity—as a result of the ‘cash for questions’ scandal in the UK and the sponsorship scandal in Canada. They were silent about misconduct such as sexual harassment of employees.

Australia and New Zealand continued for longest to use an appeal to parliamentary privilege against proposals for a parliamentary code of conduct.

In Australia, proposals were made from the 1970s onwards for a code of conduct dealing with conflicts of interest but were always rejected. Registers of pecuniary interests were established from 1984 but no parliamentarian was ever found guilty of non-compliance as long they issued an apology for failing to register an interest. In 2010 a code of conduct for Members and Senators was an item in the Agreement ensuring the support of Independents for a minority government but in the end ‘the anti-code of conduct mob won the war’.⁴⁰ As late as August 2020 a Senate committee again drew on the tradition of parliamentary privilege to reject a proposal for a parliamentary code of conduct: ‘The best scrutiny mechanism for the conduct of parliamentarians is regular, free and fair elections. Parliamentarians are ultimately answerable to their constituents, not each other’.⁴¹ Both government and Opposition members agreed that circumstances had not changed since previous rejections of a code of conduct such that there was now a strong argument for introducing one. As we shall see in the next chapter, less than six months later circumstances *had* changed, due to the explosion of anger over women’s safety in the parliamentary workplace.

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The Arrival of #MeToo Breaks the Silence

Abstract International standard-setting bodies began drawing attention to the problem of bullying and sexual harassment in the parliamentary workplace even before the arrival of the #MeToo movement led to more and more women politicians and staffers speaking out. Australia was unique in what followed—large protest events around the issue of women’s safety in parliament, which helped make it an election issue. More generally, as scandal mounted, parliaments commissioned surveys to ascertain the extent of bullying, harassment and sexual harassment. The surveys confirmed the prevalence of misconduct and the need for an intersectional approach to analysis and solutions. Precedents from the way financial scandals had been handled (path dependence) became important in the way Westminster parliaments responded, as did policy transfer.

Keywords #MeToo • Protest events • Parliamentary surveys • Intersectionality • Online abuse • Policy transfer

In the first decade of the twenty-first century, international bodies such as the Commonwealth Parliamentary Association and the Inter-Parliamentary Union (IPU) had begun identifying the reforms needed in the parliamentary workplace to make it ‘gender-sensitive’. In the same way as the diffusion of global norms around gender mainstreaming had taken place in the

1990s, international organisations were now disseminating gender-sensitive parliamentary norms, including the norm of the family-friendly parliament discussed in Chap. 2. The attention of the IPU and other international standard-setting bodies was also turning to the issue of sexual harassment in the parliamentary workplace.

The plan of action for a gender-sensitive parliament adopted by the IPU Assembly in 2012 called on all parliaments to adopt a code of conduct to ensure parliamentarians and parliamentary staff worked in an environment free from bullying and sexual harassment. Following on from this, in 2016 the IPU published the first of a series of issue briefs on sexism, harassment and violence against women in parliaments. These agenda-setting briefs reported on interview-based surveys of parliamentarians and staff. The IPU in partnership with the Council of Europe urged national parliaments to undertake their own studies and to adopt effective codes of conduct and complaints mechanisms.¹

The way in which the IPU began putting the issue of harassment and violence against women in parliament on the agenda is an example of the norm work of feminists working through transnational institutions. This norm work produces guidelines, toolkits and benchmarking for putting international gender equality frameworks into practice.² Another multilateral body engaging in such norm work is UN Women, which has also been producing guidance on harassment in parliament.

However, while feminists have exercised increasing influence in transnational institutions, parliamentary traditions pose significant obstacles to the reform at the national level. As we saw in the last chapter, such traditions include parliamentary privilege and the norms of partisan adversarialism. Parliamentary privilege justifies reliance on the ballot box as the best form of accountability for parliamentarians' conduct, while those who experience bullying or harassment are unwilling to raise the issue, for fear that complaints will be weaponised against their party. For women parliamentarians, to complain often runs across the desire to be accepted as a good team player and for the focus to be on policy contributions, not gendered experience.³

THE ARRIVAL OF THE #MeToo MOVEMENT

Sporadic sexual harassment scandals had begun to occur by 2014, including the 'Palace of Westminster' program in the UK and women MPs speaking out in Canada. However, in general it was the arrival of the #MeToo

movement in October 2017 that was a critical juncture, providing the impetus for change. #MeToo spread quickly around the world via Twitter in October 2017, with digital technology helping women share their lived experience and make connections. The consciousness-raising of fifty years earlier was taking a new digital form: it lowered the threshold for tolerance of inappropriate behaviour and led to increased reporting of experience of sexual harassment in every industry and location, including the parliamentary workplace. The ‘Silence Breakers’ became *Time Magazine’s* 2017 ‘Person of the Year’.

The exogenous shock provided by the #MeToo movement, in combination with the agenda-setting already being undertaken by transnational institutions, helped create the possibility of reform despite institutional resistance to change within national parliaments. The role of these different international factors is depicted in Fig. 4.1 (noting that the trajectory of Canada is slightly different).

#MeToo led to many women politicians speaking out for the first time about their own experiences of sexual harassment, breaking the silence over misconduct in the parliamentary workplace. Already in October 2017, during a plenary debate in the European Parliament on sexual harassment, politicians held up #MeToo signs in various languages, such as ‘#MoiAussi’ and ‘#yotambien’.⁴ Separate from the politicians, staffers in the European Parliament also mobilised. They created a network called MeTooEP and launched a blog with moving accounts of harassment experienced both by staff and interns. Their demands included more accountability from the European Parliament’s Anti-Harassment Committee, which had failed to deal with a single case.⁵

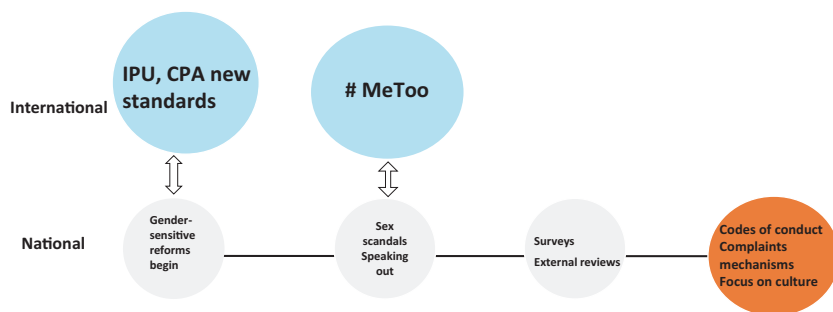


Fig. 4.1 Vectors of parliamentary reform

By October 2017, #MeToo had also reached the UK, and the ‘Pestminster’ story was breaking.⁶ A list of alleged misbehaviour by Tory MPs was drawn up by staffers and began circulating on WhatsApp. It soon featured across the front pages of UK print media, with headlines about the ‘Westminster sex pest dossier’ and the 36 Tory MPs accused of inappropriate sexual conduct. A network called #LabourToo was also collecting testimonies and published 43 stories of sexual harassment, abuse and discrimination in the Labor Party. The hashtags #TorySleaze36 and #LabourToo went viral, illustrating the role of social media in driving the scandal.⁷

Speaking out became increasingly common across parliaments from 2017 and soon resulted in the resignation or dismissal of parliamentarians and Cabinet ministers in France and Canada as well as in the UK. In Finland the Vice-President was fined 80 days salary for sexual harassment of an MP at a Christmas party. In Canada, such speaking out had already begun in 2014, when two female MPs made allegations of sexual harassment against MPs from another party. The harassers were suspended and ultimately expelled from their parliamentary party but the speaking out triggered early recognition of the need for sexual harassment to be covered in codes of conduct and complaints mechanisms.

THE HANSON-YOUNG CASE

In Australia, the silence was also breaking. In 2018, Senator Sarah Hanson-Young sued another Senator (David Leyonhjelm) for defamation despite a defence involving parliamentary privilege. Leyonhjelm had repeated in media interviews outside parliament a comment he had made in the chamber implying she had numerous sexual relationships with men. He had interjected ‘You should stop shagging men, Sarah’ believing she had accused all men of being rapists and therefore was being a hypocrite. He refused to withdraw the comment and apologise, as requested by the President of the Senate, and justified his interjection in a media interview by saying ‘Sarah is known for liking men. The rumours about her in Parliament House are well known’.⁸ While the standing orders of the two houses of the Australian Parliament forbid the use of ‘offensive’ language against members, at the time of the Hanson-Young case there was no explicit reference to sexist, racist, homophobic or otherwise exclusionary language as being unparliamentary.

Senator Hanson-Young eventually won her case, the legal argument of which was not based on the sexual innuendo but on the fact she had been falsely and wrongly portrayed by Senator Leyonhjelm as a hypocrite and man-hater. Leyonhjelm's lawyers objected on the ground of parliamentary privilege to the court taking evidence from Senators sitting near to Hanson-Young as to what she had said. However, the Federal Court disagreed, including on appeal, on the ground that while parliamentarians could not be compelled by a court to disclose what had occurred in a debate in the House, they had the right to give evidence if they chose to.⁹

Senator Hanson-Young said her determination to pursue the issue through the Federal Court was because she had 'had enough of men in that place using sexism and sexist slurs, sexual innuendo as part of their intimidation and bullying on the floor of the Parliament'.¹⁰ When she raised the issue of slut-shaming in Parliament one conservative Senator responded:

Gender should be blind in this chamber, yet Senator Hanson-Young wants to make it a perpetual grievance...gender is used all the time as a means of cowing others into silence and trying to stifle the freedoms we're meant to have in this chamber. Freedom of speech and parliamentary privilege, which we should be respecting, are even being silenced through this.¹¹

A CULTURE OF GOSSIP

The sexual gossip deployed against Hanson-Young was of a kind regularly weaponised not just against women parliamentarians but also against younger women staffers, in particular. In 2018 such gossip about both single women politicians and staffers was rife in the Australian Parliament driven by partisan and factional dynamics. For example, a woman government minister was under pressure from the Opposition. In retaliation she threatened to name young women staffers in the Opposition Leader's office 'about which rumours in this place abound'. In another notable example, rumours circulated that a single woman MP had sex with a Senator in a disabled toilet during the Press Gallery's annual mid-winter ball, one of many sexualised slurs that led to her leaving parliament.

This culture of gossip has been noted in a number of recent reports. In the New Zealand online survey of current and former parliamentary staff, 56 per cent reported experiencing destructive gossip: 'In this intensely pressured environment, gossip tends to become the lifeblood of the

culture'.¹² It can create a hostile environment for young women, particularly when it is seized upon for political purposes, and undermines their authority as political players or advisers.

The determination of politicians such as Senator Hanson-Young to put the issue of sexual harassment on the political agenda was echoed in other developments in 2018. These included allegations by Liberal women of being bullied by male colleagues supporting a change of leadership.¹³ In response, the federal political parties began adopting sexual harassment policies, beginning with the Australian Greens in 2018, the Liberal Party in 2019 and the Labor Party in 2021. The IPU had stressed the importance of having codes of conduct and internal procedures within parties, so that complaints could be dealt with effectively without becoming partisan ammunition.¹⁴

Nonetheless, allegations being made by women politicians of sexism and bullying still did not achieve much resonance in the community. The federal election of 2019 returned a government disinclined to take action on issues of the parliamentary workplace until a build-up of scandal and protest over the treatment of staffers rather than of MPs made it inevitable.

TAKING TO THE STREETS

Stories of sexual harassment in other professions were continuing to break in Australia, including the finding in 2020 that a former judge of the High Court had sexually harassed six of his young female associates. The build-up of scandal relating directly to the parliamentary workplace began with the airing in November 2020 of a program on the public broadcaster, the Australian Broadcasting Corporation (ABC), called 'Inside the Canberra Bubble'. A former ministerial staffer, Rachelle Miller, made allegations of bullying and abuse of power following the breakdown of her sexual relationship with her employing minister. The program also indicated predatory behaviour by another senior minister and in general 'lifted the lid' on the private behaviour of senior government politicians. This was a bombshell, as press gallery norms had largely protected politicians from reporting on such conduct.¹⁵

The government responded with fury to this exposure of currently serving cabinet ministers. The Communications Minister wrote a public letter to the chair of the ABC demanding to know why the personal lives of politicians were considered newsworthy and how the intrusion on their privacy could be justified. He accused the ABC of bias against the Liberal

Party, for failing to investigate the conduct of Labor, Green or Independent politicians.¹⁶ The executive producer of the ‘Inside the Canberra Bubble’ program revealed that ‘extreme and unrelenting’ political pressure had been applied to prevent the screening, and government members called for the ABC to be defunded.

It might be noted here that although there was no code of conduct for federal parliamentarians, Australian Prime Ministers had issued a code of conduct for ministers since 1996. While the ministerial code dealt primarily with conflict of interest rather than employment issues, in 2018 Prime Minister Malcolm Turnbull had inserted a prohibition on ministers having sexual relations with their staff, the so-called ‘bonk ban’. The ban was announced after revelations that the Deputy Prime Minister had been having an extramarital affair with a staffer now expecting a baby. The relationship between the minister and staffer revealed in the Canberra Bubble program took place before the ‘bonk ban’ was introduced.

In another development, at the beginning of 2021 Grace Tame took up her role as ‘Australian of the Year’. She was a charismatic young activist who had successfully advocated with others for reform of Tasmania’s Evidence Act. In order to protect the identity of survivors of sexual assault, the Act had inadvertently prevented them from telling their own stories. Tame’s legal case became the catalyst for a #LetHerSpeak campaign that won international support and resulted in change to the law in 2020. Tame made her experience of being groomed and sexually assaulted by a teacher when she was a teenager central to her public advocacy.

In turn, Tame’s public testimony inspired a former Liberal Party staffer, Brittany Higgins to relate in a tearful interview on television her own experience two years before. She alleged she had been raped by another staffer in the Defence Minister’s office out of hours. The alleged rape had occurred in the run up to a federal election and she claimed it was treated as a political problem to be managed by senior staff, Cabinet ministers and even the Prime Minister’s office.¹⁷ The revelations of these two young women ignited anger across the country over lack of concern for women’s safety.

In March 2021 this anger came to a head in demonstrations by over 100,000 women and supporters around Australia including some 10,000 outside Parliament House in Canberra, now labelled a ‘crime scene’. Prime Minister Scott Morrison refused to come out to address the March4Justice gathered outside Parliament House in March 2021 and the

Minister for Women was also absent. The size of the demonstrations seemed to confirm international findings—that because the political opportunity structure for social movements is more ‘closed’ under right-of-centre governments, social movements are more likely to engage in protest action than under left-of-centre governments more open to consultation (Fig. 4.2).¹⁸

Morrison’s subsequent statement that the demonstration was a triumph of democracy because ‘not far from here such marches, even now, are being met with bullets’ reverberated around the country. Revelations continued relentlessly. Only a week after the March4Justice events, government staffers were found to be sharing a video of a male staffer masturbating on a female MP’s desk. The incident illustrated the social science finding that women in positions of power are not immune from forms of sexual harassment and that subordinates or colleagues may resort to harassment as a ‘power equaliser’.¹⁹



Fig. 4.2 March4Justice, Canberra, 15 March 2021. (Photo: Angelika Heurich)

As we saw in relation to ‘Pestminster’, such scandals do help drive reform despite the weight of institutional inertia. Women from across the political spectrum felt it was now time to break the silence and in 2021 no fewer than four books appeared by current and former members of the Australian Parliament telling of their and others’ experiences of sexism and racism. They also spoke out in a four-part television documentary, *Ms Represented*, that appeared mid-year and is discussed below.

The Morrison Government came under increasing pressure and commissioned a number of reviews relating to the Brittany Higgins allegations. However, its initial response failed to convince, and surveys showed a steep rise in women’s disenchantment.²⁰ Women’s anger helped fuel the unprecedented success of ‘Teal’ Independents in the 2022 federal election, women candidates campaigning in previously conservative seats on the issues of climate change, integrity and women’s safety. Few voters know what goes on inside parliamentary workplaces, and it is rare for this to become an electoral issue as it did in Australia. In the lead up to the 2020 New Zealand election, the Francis Review uncovered systemic issues of bullying and harassment of parliamentary staff but this did not become an electoral issue in the same way as in Australia.²¹

THE ROLE OF THE MEDIA

Evidence of change in Australia came with increased preparedness of the media to treat allegations of sexist misconduct in parliament as serious political issues. This was particularly true of a number of senior women in the press gallery now prepared to break the tradition of silence over the sexual behaviour of politicians. Conventions of parliamentary reporting and ‘objectivity’ had previously inhibited the application of gender analysis to parliamentary culture. As we saw in the previous chapter, the co-location of media organisations within the Australian parliament tended to encourage a common frame of reference or groupthink in media coverage. This changed after the arrival of #MeToo.

The four-part documentary *Ms Represented* that appeared mid-2021 was written and presented by prominent political journalist Annabel Crabb. It featured powerful footage of women politicians from ‘both sides of the aisle’ talking about their experiences of sexism in the Australian parliament. Only two, both from the Liberal Party, were dismissive of the

issue, speaking of the need to avoid presenting as a victim or to ‘whinge’. In contrast, another former Liberal woman MP, Julia Banks, said that the Australian Parliament had ‘the most unsafe workplace culture in the country’.

Labor Leader in the Senate, Senator Penny Wong, regretted that she and other women ministers had not called out the treatment of Prime Minister Julia Gillard earlier than they did. Wong had not realised the extent of the sexism and misogyny and the way it would be weaponised politically. However, she understood why Gillard had made the decision not to respond; it would have meant people heard about her response to sexism rather than, for example, her education policy.²²

Not just Crabb but other senior women journalists played key roles in 2021 in putting issues of sexual harassment on the political agenda for the forthcoming election and keeping them there. Samantha Maiden won two Walkley Awards for excellence in journalism for breaking the story about the alleged rape of Brittany Higgins in parliament house and pursuing it for weeks. Laura Tingle, in her role as President of the National Press Club, made sure the story stayed alive by chairing a powerful joint address by Brittany Higgins and Grace Tame in February 2022. Issues relating to gender remained salient in the ensuing election campaign, more so than in any federal election campaign since 1972.

The role of feminist journalists in pursuing the issue of sexism in politics has been celebrated in a ‘Fight Like a Girl’ tea towel that went on sale at the Museum of Australian Democracy. Journalists Laura Tingle, Katharine Murphy, Samantha Maiden, Louise Milligan and Annabel Crabb are depicted on the tea towel, along with advocates Grace Tame and Brittany Higgins and women politicians. It is probably the first time that female political journalists have been celebrated on a tea towel in a democracy museum.

Nonetheless, the Murdoch media continued with its anti-feminist campaigning. *The Australian* newspaper employed a number of anti-feminist columnists and cartoonists and this dismissive attitude spilled over into its news coverage. After the mass mobilisations of early 2021, the Editor-at-Large wrote of the Opposition Leader, ‘Albanese knows he cannot rely on the 2021 zeitgeist—the emotional demand by women to reset the norms of respect and justice—to deliver victory’.²³

ONLINE ABUSE OF WOMEN POLITICIANS

2017 was not only the year that #MeToo went global but also a year of revelations about online sexist and racist abuse directed at women in politics. Digital technology was not only enabling new forms of feminist consciousness-raising but also the spread of vitriolic reaction to women's empowerment. This online abuse or 'cyberhate' has been described as a form of violence against women that challenges their very participation in public discourse. It frequently includes threats of rape and references to women's genitals or menstruation rather than engaging with their political ideas. It may result in decisions not to stand for re-election and is now recognised as a major barrier to women's participation in politics as well as a threat to democracy.

Women in politics are subjected to more online abuse than their male colleagues and abuse of a more sexualised nature. For example, in Australia Prime Minister Julia Gillard received twice as many tweets containing insults and offensive comments as her predecessor, Kevin Rudd.²⁴ As well as women receiving more online abuse, it is important to bring an intersectional approach to bear. An influential analysis by Amnesty International in the UK found that Black and Asian women politicians and journalists were disproportionately targeted for abuse, including death and rape threats.²⁵ In Canada, after Iqra Khalid MP tabled a motion condemning Islamophobia, her office received around 50,000 messages, including death threats and hate speech.²⁶

Subsequent analysis of parliamentary candidates in UK elections 2017–2019 confirmed that Black, Asian and minority ethnic candidates experienced disproportionate and increasing levels of abuse. The combined effects of gender and ethnicity meant that minority women candidates were most likely to report abuse (63 per cent). LGBT+ women candidates were also significantly more likely to report abuse than other women candidates or male LGBT+ candidates. Heterosexual white male candidates were least likely to experience abuse.²⁷

Such findings were reported in a UK House of Commons debate in 2021 on online abuse of elected women. The debate led by the Chair of the UK All-Party Parliamentary Group on Women in Parliament, Maria Miller MP, called for a legislative response to online abuse designed to bully, intimidate and silence elected representatives, particularly female representatives.²⁸ Another speaker in the debate, the Chair of the House

of Commons Women and Equalities Committee, spoke of the online abuse of female parliamentarians as part of the culture underpinning male violence against women: ‘none of us either in this debate today or in Parliament more widely knows which of our online trolls might turn into a stalker... This week’s troll could be next week’s attacker’.²⁹

Those participating in the House of Commons debate highlighted the particular targeting of female MPs from racial or ethnic minority backgrounds, those with disabilities and those from the LGBT+ community. Civil society groups such as the National Council of Women in Ireland also called for action: ‘Women from minority and marginalised backgrounds are often subject to not only sexist and misogynistic abuse online, but racism and homophobia too’.³⁰ Such findings, of the disproportionate sexist and racist abuse of women candidates from minority backgrounds were replicated in New Zealand.³¹ According to the author of the review of the New Zealand parliamentary workplace, ‘Women MPs showed me sexist and racist threats that shocked me’.³²

Disturbingly, a significant minority of men, particularly in Australia, have been found to think that online abuse of this kind is always or sometimes acceptable. On International Women’s Day in 2022, IPSOS released the findings of a survey on attitudes to gender equality carried out in collaboration with the Global Institute for Women’s Leadership in London. As shown in Table 4.1 this survey of 32 countries found that Australia had a particularly large gap between men and women’s attitudes on the acceptability of homophobic/transphobic, sexist/misogynistic or racist comments.

Table 4.1 Acceptability of online abuse

<i>Type of abuse</i>	<i>Australia</i>	<i>Canada</i>	<i>Great Britain</i>
Homophobic	22% men	9% men	10% men
	4% women	3% women	3% women
Sexist	23% men	8% men	11% men
	5% women	4% women	4% women
Racist	21% men	8% men	9% men
	4% women	3% women	3% women

Source: IPSOS, International Women’s Day 2022. https://www.ipsos.com/sites/default/files/ct/news/documents/2022-03/International%20Women%27s%20Day%202022_charts%20AUS.pdf

Revelations of the extent of online abuse of women politicians and staffers have generated calls for online abuse to be treated as workplace harassment, a safety hazard not only for MPs but for their staff. Recommendations include training in online safety but also appropriate support for staff who have to deal with particularly distressing abuse on a daily basis when managing social media accounts.³³

VALIDATING THE TESTIMONY OF WOMEN POLITICIANS AND STAFFERS

In the wake of the #MeToo movement, many women politicians and staffers had begun to speak out for the first time about their experience of sexist misconduct in the parliamentary workplace. However, such accounts were characteristically met with complete denial on the part of alleged perpetrators. This cognitive dissonance led to parliaments commissioning reviews to ascertain the prevalence of the problem, reviews usually conducted by women with impeccable legal or similar backgrounds, including statutory office holders. The IPU led the way with its own interview-based surveys of women parliamentarians and staffers. It found, for example, that 58 per cent in European parliaments had been subjected to sexist attacks on social media and around 40 per cent had experienced sexual harassment.³⁴

In the UK, in the midst of the ‘Pestminster’ scandals of 2017, Prime Minister Theresa May called on the Speaker to establish a complaints procedure and a number of inquiries were established. A cross-party and bicameral working group, including union and employee association representatives, was chaired by the Leader of the House of Commons, the Right Hon. Andrea Leadsom. It collected evidence through interviews and a short survey with 1377 responses. Of the respondents, 39 per cent reported experiencing harassment or bullying and 19 per cent reported experience of sexual harassment including witnessing sexually inappropriate behaviour.³⁵

Meanwhile, in March 2018, a BBC Newsnight documentary *Bullying, Harassment and Intimidation in the House of Commons* revealed sexual harassment and bullying of the group of staff known as ‘clerks’—employed by the House of Commons to serve on committee secretariats and inquiries. Dame Laura Cox, a former judge on the UK High Court, was appointed to ascertain the nature and extent of the problem. She heard

information from over 200 people as well as from workplace equality networks in the parliament and trade unions, finding a bleak picture of alleged misconduct by both MPs and senior managers within a context of organisational hierarchy and power imbalances, a lack of support for those affected, and inadequate procedures.³⁶

Such was the extent of ongoing scandals that even before Cox reported, the House of Commons had moved on the recommendations of the Working Group. By 2018 a new behaviour code and independent complaint-handling scheme had been adopted, to deal with bullying, harassment and sexual harassment.³⁷ It included a separate Sexual Misconduct Policy and Procedure, the first time sexual harassment had been granted separate status.

The Cox inquiry had not covered MPs' parliamentary staff, so a second independent inquiry was established, this one headed by Gemma White QC. She heard from over 220 people, most of whom worked or had worked for MPs in different roles, including as interns. Her terms of reference included the bullying and harassment of MPs themselves but because few MPs contributed such experiences, she focused exclusively on staff, emphasising their uniquely vulnerable position: 'Their collective testimony provides a solid foundation for concluding that a minority of Members of Parliament have bullied and/or harassed staff in the past and continue to do so, despite the introduction of the new Parliamentary Behaviour Code'.³⁸

The surveys of the parliamentary workplace commissioned in Westminster democracies at this time repeatedly found a significant number of respondents reporting experience of bullying or harassment. By 2021 there were seven international reports into harassment in parliamentary environments that were drawn on in Australian parliamentary inquiries. For example, a large survey of workers in the Scottish Parliament, including constituency and regional offices, found that 30 per cent of female respondents and 6 per cent of male respondents reported having experienced sexual harassment or sexist behaviour, with perpetrators overwhelmingly male.³⁹

In New Zealand, scandals relating to alleged bullying by MPs led to the Speaker of the House of Representatives commissioning a review from Debbie Francis, HR consultant and previously 'Chief People Officer' in the New Zealand Defence Force. She conducted an online survey of current and former staffers, which had more than 1000 respondents. Of these

29 per cent reported experiencing some form of bullying or harassment from either an MP or manager, 30 per cent from peers and 24 per cent from a member of the public. Her terms of reference did not cover bullying and harassment of MPs, although she did receive reports of such bullying and intimidation. She conducted 200 interviews and ran 42 focus groups.⁴⁰

In Australia, the Brittany Higgins scandal led to Prime Minister Morrison commissioning a series of internal reviews. However, this attempt at political management of the issue was insufficient. Mounting pressure resulted in his commissioning an independent review of Commonwealth parliamentary workplaces from the Commonwealth Sex Discrimination Commissioner, Kate Jenkins. This was the largest review to date, collecting evidence from 1700 individuals concerning experience of the Australian parliament as a workplace. Because of its significance in initiating comprehensive parliamentary reform, its genesis and conduct is discussed in detail in Chap. 6. Meanwhile, in brief, it found that 33 per cent of those currently working in the parliamentary workplace had experienced some form of sexual harassment and 51 per cent had experiences of at least one incident of bullying, sexual harassment and attempted or actual sexual assault.⁴¹

At the sub-national level, there were similar findings in the South Australian Parliament. Of 219 respondents who completed the survey, 27 per cent reported they had experienced sexual harassment in the parliamentary workplace and 32 per cent reported ‘discriminatory harassment’ on the basis of an attribute covered by the *Equal Opportunity Act*.⁴² In the Tasmanian Parliament, half of whose elected members are women, a lower percentage of the 318 respondents reported experience of sexual harassment (15 per cent). However, two thirds of respondents had witnessed discrimination, sexual harassment or bullying, with discrimination mostly linked to sexism and family responsibilities. While policies were in place, in practice there were negative repercussions for those seeking flexible work.⁴³

As well as finding similar patterns of bullying and harassment in the parliamentary workplace the surveys also found similar weaknesses in handling complaints relating to such misconduct. Respondents believed that, in general, politics was prioritised over their welfare and there was a lack of procedures through which complaints could be made without the fear of retribution. Such weaknesses meant that parliamentarians were effectively unaccountable for their behaviour as employers.

THE ROLE OF SCANDALS IN PROMOTING PARLIAMENTARY REFORM

All of the Westminster parliaments show the importance of scandals in promoting reform and instigating more independent oversight of misconduct. While the Privileges Committee of the Australian House of Representative noted the advantages of initiating a code of conduct in an environment of reform rather than misconduct,⁴⁴ in the absence of scandal, reform went nowhere. Initially the scandals that triggered reform were all to do with financial misconduct and conflict of interest. While other Westminster parliaments continued to appeal to parliamentary privilege to fend off oversight, it was the UK parliament that led the way in creating independent oversight bodies. The cash for questions scandal of 1994 led to a code of conduct and the establishment of the independent (but non-statutory) Parliamentary Commissioner for Standards. In 2009 there was a parliamentary expenses scandal that included items such as the ‘£1,600 duck house’ and the cost of cleaning out a moat on an MP’s country estate. It quickly led to the creation of the Independent Parliamentary Standards Authority, this time a statutory body, to take responsibility for managing parliamentary entitlements.

In institutional terms, path dependence had been created in the UK parliament—precedents of responding to misconduct not by appeals to parliamentary privilege but by creating independent oversight bodies. This did not mean that incidents of sexual and sexist misconduct would automatically lead to such an oversight mechanism. In 2012 an effort to give the Parliamentary Commissioner for Standards scope to deal with issues of sexual as well as financial misconduct had been blocked by all three major parties.⁴⁵ However, the Westminster scandal of 2017 was a critical juncture and the precedent was at hand to enable a rapid response. The new Independent Complaints and Grievance Scheme boasted on its website that it was ‘the first of its kind in any Parliament in the world’.

While path dependence enabled the UK to be a first responder in establishing independent oversight bodies, policy transfer benefited Westminster parliaments that had been slower to respond. For example, the UK Independent Parliamentary Standards Authority became the gold standard for responding to misuse of parliamentary allowances. It enabled an

Australian Prime Minister to respond quickly to a scandal over a minister charging for a trip to the Gold Coast where she purchased an investment property. He established an Independent Parliamentary Expenses Authority (IPEA), modelled on the UK precedent—an example of what is called ‘institutional isomorphism’. Similarly, in 2021, the Australian Sex Discrimination Commissioner was able to move quickly to prepare recommendations for parliamentary reform, in part through drawing on the experience of the UK Commissioner for Parliamentary Standards. The next chapter examines in more detail how parliaments responded both to scandals and to the mounting evidence of misconduct and inadequate complaints procedures in the parliamentary workplace.

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Trying to Turn Parliament into a Model Workplace: UK, Canada and New Zealand

Abstract The chapter describes the steps taken to reform parliamentary workplaces in the United Kingdom (UK), Canada and New Zealand. There is a particular emphasis on the history of reforms in the UK, as a first mover in the creation of independent oversight of the parliamentary workplace and a source drawn on by later reformers. The three cases demonstrate the difficulties involved in creating robust systems to tackle sexual and sexist misconduct in parliaments. Where regimes are strongly independent—as in the UK—parliamentarians may perceive them as unfair and as a challenge to parliamentary sovereignty. Where they are under the control of parliamentarians—as in Canada—they lack critical independence. In New Zealand’s case, a lack of commitment within the parliament has made constructing a standards regime difficult.

Keywords Sexual misconduct • Standards regimes • Parliamentary reforms • UK • Canada • New Zealand

As we saw in the last chapter, the arrival of #MeToo in October 2017 led to a spate of revelations about sexual harassment in Westminster parliaments and created the external shock needed to hasten reform. Evidence from the Westminster family tells us there are three core elements to reforming toxic parliaments. First, norms or rules must be established prohibiting sexual misconduct and bullying. These rules—in the form of

codes of conduct—set out what behaviour is expected and what behaviour is unacceptable. They are the necessary first step in reforming conduct. Second, enforcement architecture must be created: this establishes how people are held accountable, who is responsible for enforcing the rules and how disputes are resolved. Ideally this means an independent complaints system, an independent officer to conduct investigations and decide on sanctions, and parliamentary commitment to support these processes. Third, there must be proactive efforts to improve and prevent misconduct in parliaments: advisory resources to support these regimes and committed work towards culture change, ideally led by a body with responsibility for monitoring and driving reform.

While there are commonalities, interesting differences exist in the trajectories of reform among these Westminster parliaments as they seek to improve conduct and move towards being ‘model workplaces’.

THE UK: FROM SELF-REGULATION TO INDEPENDENT OVERSIGHT

The UK was the first to move from self-regulation to a code of conduct and independent oversight of members. This was prompted by the ‘cash for questions’ affair, in which it was alleged two Conservative MPs had been bribed to ask parliamentary questions and perform other tasks on behalf of the Egyptian owner of Harrods department store, Mohamed Al-Fayed. A Committee on Standards in Public Life was established in 1994 and the following year a Parliamentary Commissioner for Standards created as an independent officer of the House of Commons. A code of conduct was adopted by the House of Commons in 1996.¹ Initially the standards did not encompass sexual or sexist misconduct; however, as we have seen in earlier chapters, the acceptance of the need for independent oversight of conduct may have established a regulatory path dependence. It enabled the UK to respond relatively quickly to the wave of allegations of sexual misconduct that engulfed parliament in 2017. In 2018, a new behaviour code was created and an independent body to handle complaints about misconduct.

The institutional and regulatory structure in the UK is complex and evolving. It has often changed since its establishment in the 1990s. The *Behaviour Code* created in 2018 applies to all people who work in or visit parliamentary spaces. It warns that ‘Unacceptable behaviour will be dealt

with seriously, independently and with effective sanctions’ and outlines the following expectations of conduct:

- Respect and value everyone - bullying, harassment and sexual misconduct are not tolerated
- Recognise your power, influence or authority and don’t abuse them
- Think about how your behaviour affects others and strive to understand their perspective
- Act professionally towards others
- Ensure Parliament meets the highest ethical standards of integrity, courtesy and mutual respect
- Speak up about any unacceptable behaviour you see

MPs are also bound by a Code of Conduct that states ‘Members must treat their staff and all those visiting or working for or with Parliament with dignity, courtesy and respect’, while ministers are prohibited from ‘harassing, bullying or other inappropriate or discriminating behaviour’ under the Ministerial Code.

As shown in Table 5.1, the UK system of complaint handling is distinguished by the central role of independent external investigators. Complaints about bullying, harassment and sexual misconduct are investigated by the Independent Complaints and Grievances Scheme (ICGS), using external independent investigators. The procedure differs depending on whether the complaint involves parliamentarians or staff. Where a complaint is made against an MP’s member of staff, the MP as employer takes any disciplinary action if the complaint is upheld. Where the respondent is an MP, the ICGS investigation report goes to the Parliamentary Commissioner for Standards, an independent officer of the parliament, who makes findings and decisions on sanctions; they are able to require ‘rectification’ or ‘remedial actions’ if the complaint is upheld. Appeals about these findings or sanctions can be made to an Independent Expert Panel. The Parliamentary Commissioner for Standards investigates alleged breaches of MPs’ Code of Conduct, and makes findings and recommendations to the Committee on Standards, which makes decisions about the conduct of MPs. MPs are required by their Code of Conduct to cooperate at all stages with the Commissioner’s investigations. The Parliamentary Commissioner for Standards cannot investigate alleged breaches of the ministerial code.

In 2020, the House of Commons agreed to amend the ICGS process to ensure it was independent of any members of parliament. Previously, serious sanctions had been considered by the Committee on Standards.

Table 5.1 Standards reforms in three Westminster countries

	<i>UK House of Commons</i>	<i>Canada House of Commons</i>	<i>New Zealand House of Representatives</i>
Current codes of conduct for parliamentarians which reference sexual harassment and/or bullying	Behaviour Code (2018); Code of Conduct for MPs (2022); Ministerial Code (2022)	Code of Conduct for Members of the House of Commons: Sexual Harassment Between Members (2015); Members of the House of Commons Workplace Harassment and Violence Prevention Policy (2021); Respectful Workplace Policy—Office of the Prime Minister and Ministers’ offices (2020)	Behavioural Statements for the parliamentary workplace (2020)
Start of modern standards regime	2018	2014	2020, though still being created
Anti-bullying and sexual harassment training	Voluntary training for MPs and their staff; (mandatory for Members of the House of Lords)	Mandatory training within three months for new MPs and employees. Repeat training once every three years	Positive Workplace Culture program for staff and MPs; not all political parties are participating
Distinctive features	High independence from parliamentarians. An independent Parliamentary Commissioner for Standards, an independent complaints body (ICGS) and an Independent External Panel which reviews appeals. Lay members are significantly represented	Process for handling complaints is internal to parliament and not independent of MPs. A separate code and process for addressing MP–MP sexual harassment and a mandatory pledge by MPs not to sexually harass other MPs	Behavioural Statements, not in standing orders but agreement a condition for access to the parliament building and to staff resources. An independent Commissioner for Parliamentary Standards. No independent complaints body for allegations against staff. Sanctions regime not yet in place

(continued)

Table 5.1 (continued)

	<i>UK House of Commons</i>	<i>Canada House of Commons</i>	<i>New Zealand House of Representatives</i>
Challenges within the standards regime	Fragmented governance Challenges to legitimacy—tension between independence, fairness, parliamentary sovereignty No central HR body to professionalise the workplace and resolve matters quickly No single body leads and monitors reform	No independent grievance body or commissioner to investigate, make findings and decide sanctions Dominance by political parties of the standards regime, with little role for lay members No independent external review has provided a template for reform	Difficulty achieving consensus across parliament for standards reform or binding rules No central HR body; staff employed by two different departments in ‘triangular’ relationships with MPs Lack of appetite for greater investment in HR support

Dame Laura Cox in her 2018 review, discussed in the last chapter, insisted that to be credible the complaints process must be independent of parliamentarians. MPs were seen to side with their own and had voted to limit investigations.² In 2020 an Independent Expert Panel was established, to determine sanctions where the Parliamentary Commissioner for Standards had found misconduct had occurred but sanctions were beyond their powers, and to hear appeals by MPs against ICGS decisions and sanctions decisions. No MPs take part in the decisions of the panel; they are not involved in judging the conduct of a colleague. However, the House of Commons must approve a motion to impose serious sanctions on an MP.

A parliamentary committee, the Committee on Standards, oversees processes involving breaches of the MPs’ code of conduct and makes decisions. Its recommendations for sanctions are voted on by the House of Commons without debate or amendment. The Committee has equal numbers of parliamentarians and ‘lay’ members, and the lay members have an effective voting majority.³ The former Parliamentary Commissioner for Standards Kathryn Stone said the lay members ‘are hugely important because they provide a check and challenge to the political focus of the members of parliament on the ... committee’.⁴

The *Behaviour Code*, the *Sexual Misconduct* policy and the *Bullying and Harassment* policies apply to staff of MPs, and there is a separate code of conduct for staff who work for members of the House of Lords. The Lords Commissioner for Standards oversees and manages all complaints against Lords staff and applies sanctions.

In 2021 the House of Lords Conduct Committee withdrew access to dining facilities, the Library, and meeting rooms for three peers who failed to undertake the *Valuing Everyone* training by the deadline. This Parliament-wide training program is designed to ensure everyone working at Parliament can recognise bullying, harassment and sexual misconduct, and feels confident taking action to tackle and prevent it. The training is mandatory for Members of the House of Lords under their code of conduct but voluntary for members of the House of Commons. In August 2022, 92 per cent of MPs and 97 per cent of Members of the House of Lords had completed the training. However only 25 per cent of MPs' staff had undertaken the training, which is not mandatory for them.⁵

In its 2022 annual report, the ICGS revealed that 83 per cent of its cases related to bullying and harassment and 17 per cent involved sexual misconduct. Complaints relating to sexual misconduct had increased. Most complainants were MPs' staff and most of the respondents were MPs. Of the completed investigations, 48 per cent were upheld.

The ICGS has faced criticism for the slowness of its investigations. For example, Alison Stanley's 2021 review found a perception in the parliamentary community that 'it is a stressful, isolated and lengthy process'. Investigations took long to complete, causing prolonged periods of distress for all parties. This may be due to the complex organisational context of the UK parliament, with its different governance frameworks and mix of employers, employees and elected representatives. Stanley recommended ICGS simplify and shorten its processes to maintain confidence in the scheme and develop more informal ways of resolving issues.

In the UK, the complaints process and enforcement architecture is complex and has evolved to be increasingly independent of parliamentarians. This creates a number of challenges, particularly arising from the tension between independence from parliamentarians and fairness to parliamentarians. The Right Hon. Andrea Leadsom, who as Leader of the House of Commons introduced the complaints-handling system for bullying, harassment and sexual misconduct, said 'We want to be a role model for legislatures around the world in our determination to meet our own challenges head on'.⁶

Despite this aspiration to be a role model, the complexity of the system is problematic: in 2022 the Parliamentary Standards Commissioner Kathryn Stone advised the Australian parliament that in designing a new system ‘you probably wouldn’t start where we are’.⁷ She identified ‘13 different remits and bodies in the parliamentary standards system’.⁸ There are different regulatory frameworks and enforcement processes for Members of the House of Commons and Members of the House of Lords; and for the staff of MPs and of peers. For example, the Lords Commissioner for Standards oversees and manages complaints against Members of the House of Lords and applies sanctions.

Ministers are separately regulated, by a Code of Conduct overseen by the Prime Minister, who appoints an Independent Adviser to undertake investigations. In 2022 the Parliamentary Standards Commissioner expressed frustration that she received many complaints about the conduct of ministers who are outside her remit.⁹

In 2021, the UK’s standards architecture came under strong challenge when a Committee on Standards report about the conduct of Tory MP Owen Paterson recommended he be suspended from the House for 30 sitting days for breaching lobbying rules. This sanction would automatically trigger a recall petition in his electorate, putting his career as an MP at risk. Since 2015, voters can remove an MP between elections if 10 per cent of local electors sign a recall petition. One of the triggers for such a petition is if the MP is suspended from parliament for at least 10 sitting days.¹⁰

Paterson claimed the investigation ‘offend[ed] against the basic standard of procedural fairness ... and a fair process would exonerate me’.¹¹ The House declined to consider the Committee’s report, and the government moved to appoint a new committee to review the fairness of the standards system and whether MPs had ‘the same or similar rights to people who are under investigation for alleged misconduct in other workplaces’, including the right to legal representation, to examine witnesses and to appeal. This represented a serious challenge to the inquisitorial process and the legitimacy of the Parliamentary Standards Commissioner’s role in investigations and decision-making about sanctions. For the first time in its history the House of Commons voted down a recommendation of the Standards Committee. However, several political parties refused to participate in the new committee, so it did not proceed. Less than two weeks later, the House reversed its position and unanimously endorsed the Standards Committee report.¹²

The Parliamentary Commissioner for Standards at the time, Kathryn Stone, faced criticism and personal attacks over the Paterson case, which she saw as ‘hostile challenges to our authority and our decision making’. She felt she was treated as a ‘political football’ but reportedly declared ‘I am going nowhere’.

In December 2021 the Committee on Standards commissioned Sir Ernest Ryder to review fairness and natural justice in the standards system. The Ryder Review generally supported the current standards regime but recommended that the Parliamentary Standards Commissioner’s reports be treated as opinions rather than decisions. The Commissioner should not combine the roles of investigator and decision-maker. Ryder stated the authority to make decisions on conduct must lie with parliament’s Committee on Standards due to parliamentary sovereignty: ‘the governance of standards should be by Members of the House’.¹³ This shift has been described as an evolution in the process, and is evidence of both the continuing strength of the tradition of parliamentary privilege and ongoing tension between the values of independence and fairness to MPs.¹⁴ Since October 2022, MPs have been given the right to appeal decisions of the Committee on Standards to the Independent Expert Panel (Fig. 5.1).

Alongside these challenges to the structure of the standards regime, there have been ongoing problems of sexist conduct in the UK parliament. In April 2022, unnamed Tory MPs made a sexist slur against the deputy Opposition leader Angela Rayner, which was condemned as misogynist by Prime Minister Boris Johnson. It was an example of intersectional abuse: Rayner saw the comments as ‘steeped in classism as well’, targeting her as a woman with a working class background.¹⁵ In May 2022, it was reported that 15 MPs faced allegations of sexual misconduct, including accessing pornography in parliament, sexual harassment and sexual assault against staffers, other MPs and journalists.¹⁶ In December 2022, Leadsom (now a Dame), said the scheme was failing because the

Fig. 5.1 Former Parliamentary Commissioner for Standards Kathryn Stone OBE provided advice to the Australian parliament when developing its standards regime



original plan to set up a human resources (HR) service alongside the complaints scheme was never fully implemented, meaning it was overwhelmed by lower-level workplace grievances, deterring victims from pursuing more serious accusations. She said ‘some female colleagues were “pretty miserable” with the general state of political life, and in particular, the slowness to deal with problems’.¹⁷

A recent development points to further tensions between the need to ensure a safe workplace and the need for MPs to be able to carry out their democratic role. On 5 June 2023, the House of Commons Commission published proposals for excluding MPs charged with violent or sexual offences from the parliamentary estate and parliamentary-funded travel. This was driven by the concern raised by parliamentary staff and the Women and Equalities Committee that MPs who are under investigation for sexual misconduct, or in some cases sexual offences, are continuing to attend parliament. Debate continues about the proposal.¹⁸

There is a drive to reconsider and simplify the UK standards architecture. In July 2023 the Committee on Standards launched ‘an inquiry into the landscape of bodies and processes that have some role in regulating the conduct of MPs’. It notes that MPs are directly and indirectly regulated by 10 bodies and that ministers and former ministers are regulated by 4 bodies. Its terms of reference focus on whether the system is coherent and whether there are possibilities for ‘simplification or consolidation’ and ‘streamlining’. In a sign of the policy borrowing which is occurring between parliaments, the committee will consider ‘what can be learned from parallel processes in other parliaments/assemblies within the UK and elsewhere’.¹⁹ The former chair of the Committee on Standards Chris Bryant argues the many standards bodies should be amalgamated into a single independent national commissioner for ethics and standards, and that codes of conduct for the House of Commons and House of Lords, the Behaviour Code and the ministerial code should be brought together into a single parliamentary code. However others argue that consolidation could risk eroding the crucial role of independent bodies.²⁰

The UK case exemplifies the concern that despite establishing a regime of codes of conduct and complaints bodies, bullying and sexual misconduct remain prevalent within the parliamentary workplace. This suggests culture change has not occurred and underlying issues have not been adequately addressed. One such issue is the comparatively limited HR support provided to MPs and their staff in the UK. In a recent report, the All-Party Parliamentary Group on Women in Parliament argues that high-level oversight and guidance is needed from a new Advisory Group, which

would ‘spearhead reform into the future’, monitor culture change and be accountable for progress.²¹

CANADA: PIONEERING STANDARDS ARCHITECTURE

While Canada moved relatively early to establish a standards regime relating to sexual harassment (before the advent of #MeToo), its system lacks the independent external features of the UK. Its standards regime is internal to the parliament and largely under the control of parliamentarians. In contrast to the UK, New Zealand and Australia, conduct in the Canadian parliament has not been subject to a major external independent inquiry, and regulation has evolved through internal reforms.

The Canadian House of Commons was the first Westminster Parliament to introduce codes and processes for complaints of harassment, with a policy adopted in 2014 applying to the staff of MPs and to MPs as employers of staff. Then in 2015 it became the first to introduce a code of conduct dealing with sexual harassment between members of parliament. As we saw in Chap. 4, two female MPs had privately made allegations of sexual harassment and sexual assault by MPs of another party. This brought to light the lack of processes for dealing with such issues and led to the Standing Committee on Procedure and House Affairs recommending a code of conduct and complaints resolution process—agreed by the House by unanimous consent.

The *Code of Conduct for Members of the House of Commons: Sexual Harassment Between Members* was appended to the Standing Orders, stating ‘A member shall not sexually harass another member’. It applies only to allegations of non-criminal sexual harassment between Members of Parliament. Under the Code, every MP must sign the following pledge and return it to the Chief Human Resources Officer within 60 days after the notice of their election is published in the Canada Gazette, or within the first 30 sitting days of the ensuing Parliament:

As part of the House of Commons’ mission to create an environment in which all individuals can excel, I,, member of Parliament, commit to contribute to a work environment free of sexual harassment. I recognize that part of our mission is to create a workplace free of sexual harassment and that sexual harassment among members of Parliament is strictly prohibited. I further commit to following the *Code of Conduct for Members of the House of Commons: Sexual Harassment Between Members*, and to respect confidentiality in accordance with the principles set out in this code.²²

Unlike the UK, with its strongly independent standards process, the Canadian regime for resolving sexual harassment between MPs involves parliamentarians and political parties.²³ Allegations are made to the party whip (if the respondent is from the same party) or to the Chief Human Resources Officer of the parliament (if the allegations involve members of different parties or Independent members). If mediation fails at this point the complainant may file a formal complaint to the Chief Human Resources Officer (CHRO), who engages an external investigator. After their report, if the matter warrants further action the CHRO refers the matter to the respondent's party whip, who must propose a course of disciplinary action.

If the complainant or the respondent is not satisfied with the proposed disciplinary action the matter may be referred to the Standing Committee on Procedure and House Affairs (comprised of the four recognised political parties in the House). The complainant and the respondent have the opportunity to appear before the Committee in an in-camera meeting. The Committee then prepares a report to the House of Commons that may recommend sanctions and name the member being sanctioned. Within 10 sitting days after the presentation of the report, the member who is the subject of the report may make a statement in the House which must not exceed 20 minutes. The motion to accept the committee's report can be debated for up to three hours. This is very different from the UK system, where reports on misconduct and sanctions are voted on in the House without amendment or debate.²⁴

While this was the first code to address member-to-member sexual harassment amongst Westminster nations, Canadian political scientists Cheryl Collier and Tracey Raney argue its design is not 'gender friendly' and may even 'do more harm than good' in tackling sexual harassment amongst parliamentarians.²⁵ They say the key role played by party whips may lead to 'quick and quiet' resolutions and 'gentle' sanctions, as the whips have a strong interest in limiting damage to their political parties. There are no requirements to report on actions taken under the code, which means the extent of sexual harassment and remedies taken to tackle it remain secret. How effective the code is or how often it has been triggered is unknown.

Separate from codes about sexual harassment between members of parliament was the pioneering 2014 *Policy on Preventing and Addressing Harassment* already referred to, which applied to political staffers and MPs as employers of staff. It was criticised for requiring staffers to raise matters first with their employing MP, on whose good will their employment was dependent. In 2021, the House of Commons updated the 2014 policy

after amendments to the Canada Labour Code requiring prevention of sexual harassment in federal workplaces. The 2021 *Members of the House of Commons Workplace Harassment and Violence Prevention Policy* defines ‘harassment and violence’ as ‘any action, conduct or comment, including those of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee’.²⁶ The policy outlines a process for handling allegations of harassment and violence, and complaints can now be filed with the CHRO. Harassment and violence prevention training is mandated: ‘All new Members and employees must receive training within three months after the day they start in their position. Further, Members and employees must receive this training again once every three years’.

Unlike the UK, New Zealand and Australia, the process of handling complaints is not independent of the workplace or the parliament, leading Raney and Collier to argue the regime ‘enables politicians to largely self-police sexual harassment in parliament’.²⁷ They point out the way in which informal norms and practices underpin party patronage and the power of party whips, to allocate rewards and punishments for those who depart from the party line. These extensive patronage powers provide opportunities to ‘dissuade’ complainants from filing a formal claim as well as to encourage MPs to handle issues quietly, in the interests of the party.²⁸

If the respondent is a staff member, the MP ‘may consider’ disciplinary action after receiving an investigation report. If the respondent is an MP, the report is handed to the Board of Internal Economy (comprised entirely of MPs) which determines if further action is required. The emphasis generally is on informal resolution of complaints. A Respectful Workplace Team within the House of Commons Administration offers mediation and intervention to Members of Parliament and their staff, in informally resolving complaints and disputes. Appeals are heard by panels of MPs and findings can be debated on the floor of the house. Sanctions are often determined by party whips.

Canadian ministerial staff face an even less independent and more problematic process in raising complaints about misconduct. On paper, the rules are clear: ministerial staff are subject to a Respectful Workplace Policy which states that ‘Harassment, violence and discrimination will not be tolerated, condoned or ignored’ and their ministers are required to ‘provide all employees with a harassment, violence and discrimination-free workplace’. Ministerial staff must sign the policy on starting their employment with the commitment: ‘I understand that compliance with this

policy constitutes a condition of my employment and that any violation of this policy will lead to corrective measures, which may include disciplinary measures up to and including dismissal.’

Yet the complaints process is entirely internal to the government and under the direction of the Prime Minister’s Office: complaints must be made to complaint resolution officers (nominated staff in each ministerial office), with the process overseen by Respectful Workplace Officers, who are staff in the Prime Minister’s Office.

While standards architecture has been in place for longest in Canada and includes sexual misconduct between MPs, it lacks the independent and external elements that characterise the UK system (see Table 5.1). There is no independent grievance body or commissioner to make findings and decide sanctions and few lay members are involved. Most of the processes are internal and under the control of parliamentarians and party whips. In her 2022–2023 annual report, the Chief Human Resources Officer stated 13 complaints of harassment and violence were received and 10 were resolved, without any formal investigation.²⁹ The data is not reported by gender. Whether informal resolution is an effective way to tackle such problems is not clear and no surveys tracking the experience of conduct in the parliamentary workplace have been published.

In further evidence of the complexity of the problem of workplace harassment faced by MPs staff, Meagan Cloutier reveals that Canadian staff experience significant levels of harassment by constituents. This was a far greater problem for women than men in her survey. MPs staff can also experience the harmful effects of managing and addressing the harassment MPs receive from constituents.³⁰ Abuse and harassment by constituents can be difficult to address within current standards frameworks. Notably, the majority of complaints to the Chief Human Resources Officer in 2022–2023 listed the respondent as a ‘third party’, rather than a colleague or an MP. This category included members of the public and staff working for another MP.³¹

Meanwhile, the 2019 Canadian Election Study found that there is strong support among voters for greater accountability of politicians accused of sexual harassment (the public to be made aware of accusation and the MP to be temporarily suspended during the investigation) and greater accountability for those found to have engaged in sexual harassment, including a requirement for a public apology and constituents being able to trigger a by-election.³²

NEW ZEALAND: THE STRUGGLE FOR CONSENSUS

Since 2019, the New Zealand parliament has worked to address toxic behaviour in its workplace but has struggled to reach consensus for reform at times, meaning progress has been slow.

Attempts to follow the UK in adopting a formal code of conduct dealing with conflicts of interest were long resisted by the major parties. A requirement to register pecuniary interests was finally introduced into the standing orders in 2005 but a code of conduct developed by four minor parties in 2007 was not broadly supported. New Zealand has a history of entrenched resistance to an enforceable code of conduct.³³

After a string of scandals involving misconduct by MPs in 2018, the New Zealand parliament commissioned an inquiry into bullying and harassment in parliament, led by HR consultant Debbie Francis. The 2019 Francis report (the *External Independent Review: Bullying and Harassment in the New Zealand Parliamentary Workplace*) revealed a culture of poor conduct, including bullying, sexual harassment and sexual assault, and that harmful behaviours were ‘systemic’. Francis said, ‘New Zealand’s Parliament, as a workplace, retains some elements of management and culture that have been erased from other modern workplaces for decades.’³⁴ She also noted it ‘exhibit[s] some of the commonly cited elements of workplace toxicity’.³⁵ One respondent to the review wrote ‘Bullying infests every aspect of Parliament and everyone knows it.’³⁶

Francis made 85 recommendations including: a parliamentary workplace code of conduct for MPs and all staff in parliamentary precincts; an independent Parliamentary Standards Commissioner to receive complaints about breaches of the code by MPs; and consolidated HR arrangements for staff. When the report was released Prime Minister Jacinta Ardern said, ‘it is an environment that absolutely needs to change’.

In 2019 a code of conduct steering group was tasked with developing a code of conduct. It was headed by the deputy speaker, with cross-party membership and representatives from the Parliamentary Service, press gallery and unions. A Parliamentary Culture Committee of five MPs now oversees the implementation of the Francis recommendations. Progress has been slow.

In 2020 the parliament established *Behavioural Statements for the parliamentary workplace* which state that all people working in parliament must:

- Show that bullying and harassment, including sexual harassment, are unacceptable
- Act respectfully and professionally

- Foster an environment where people feel safe and valued
- Encourage diverse perspectives, and the free and frank expression of views
- Behave fairly and genuinely, treating others the way we would like to be treated
- Use our position of power or influence to help others, and avoid harm

This did not initially receive full support across the parliament, and signing up to the statements was voluntary. The Behavioural Statements are not in the standing orders of parliament. However, they have become mandatory through two mechanisms. One is an agreement that MPs must sign to gain access to staff, known as the ‘Triangular Relationship Agreement’. Though they work in MPs’ offices, staff are employees of the Parliamentary Service. Since 2020, in order for staff to work in an MP’s office, the MP, the Parliamentary Service and the employee must all sign an agreement stating they will abide by the Behavioural Statements and meet health and safety obligations.³⁷ In addition, access cards for parliament buildings are now conditional on agreement to abide by the Behavioural Statements—a distinctive feature of the New Zealand standards regime, as shown in Table 5.1.

It took several more years of protracted, and at times tense, negotiations before an independent Commissioner for Parliamentary Standards was appointed; former Auditor General Lyn Provost began her term in January 2023. Her role is to receive, investigate and resolve complaints that MPs have breached the Behavioural Standards, and if upheld, to report to the House through the Speaker.³⁸ In conducting her inquiry, the Commissioner ‘must observe the principles of natural justice’. Former Speaker Trevor Mallard commented that: ‘It has taken a long time. I think that for some people that have been around here for a period of time, the idea of someone else effectively sitting in judgement is foreign and quite hard. ...I think people are uncomfortable.... Some still are.’

A sanctions regime, which would be triggered where findings of misconduct occur, has yet to be put in place. In November 2022 it was reported that the creation of a Sanctions Working Group to determine possible sanctions for findings of misconduct by MPs (Recommendation 81 of the Francis Report) had been deferred.³⁹ Progress on establishing the standards system remains slow. Rules and a complaints mechanism are incomplete without a sanctions regime.

The Commissioner for Parliamentary Standards has no remit to investigate complaints made against staff. Since May 2022 all staff working for

MPs and ministers, or for the parliamentary department, are bound by a *Respect for People in the Parliamentary Workplace Policy* which commits to maintaining ‘an environment in which all people are treated with *atawhaitanga* (kindness and courtesy) and *whakaute* (respect)’. It states:

We do not tolerate any inappropriate behaviour. This includes: any type of bullying; intimidating, aggressive, or threatening behaviour; verbal abuse; physical violence; harassment and sexual harassment; sexual misconduct; comments of a demeaning, racist, or sexist nature; ... whether they occur in person, online, or electronically. ...Concerns and complaints will be dealt with promptly, fairly, sensitively, and with respect.⁴⁰

In New Zealand, staff working for parliamentarians are employed by a parliamentary department (the Parliamentary Service) rather than directly by their MP and ministerial staff are employed by a public service department (the Department of Internal Affairs) though they work directly for ministers. Complaints about staff conduct and breaches of the Behavioural Statements are dealt with by these employing departments, rather than an independent complaints body.

In terms of culture change, the former Speaker said he had prevented some MPs from employing staff until they had completed anti-bullying training. In May 2022, the parliament posted a message on Pink Shirt day (a day promoting anti-bullying messages) where all party leaders and other parliamentary executives affirmed their commitment to creating a healthy workplace culture. However, in November 2022 it was reported that not all MPs were participating in the Positive Workplace Culture awareness program—only those from Labour, National and the Greens.⁴¹

In October 2022 the new Speaker, Adrian Rurawhe, announced that Debbie Francis would undertake another review and report on progress in changing the parliamentary workplace culture. The leader of the right-wing ACT (Association of Consumers and Taxpayers) party, David Seymour, did not support the review, saying: ‘The underlying assumption of it is that we can’t quite trust the people to elect their representatives, therefore, some other elected higher power must come in and review them and check up on how they’ve been reviewed’ (Fig. 5.2).⁴²

In June 2023 Francis reported that the cultural health of the parliamentary workplace had improved significantly since her first review in 2019. There was a safer and more respectful culture and parliamentarians were more vigilant about their own behaviour and that of their colleagues. But she argued some of the work done had addressed symptoms rather than



Fig. 5.2 In 2023 Debbie Francis reviewed progress made in changing New Zealand’s parliamentary workplace culture

root causes, at times papering over ‘a fundamentally antiquated and under-resourced operating model’. The systemic issues driving poor conduct and unsafe workplaces remained unresolved, such as extreme power differentials between staff and parliamentarians, and underdeveloped HR, management and leadership skills. While there were ‘pockets of excellent practice’ and ‘sometimes-heroic efforts’ Francis felt ‘too many of the power imbalances and pain points of the old culture remain’. She urged transformative structural change to the way the parliamentary workplace operates, with new funding models, employment arrangements and significantly improved HR functions. However, she acknowledged this did not have the support of parliamentarians, who are unwilling to commit the increased funding needed.⁴³

The New Zealand case demonstrates the difficulties of putting in place rules and enforcement architecture without strong consensus across the parliament for such reform. Employment contracts and building access are being used to embed codes where there is resistance to introducing binding rules in parliament. The difficulty in establishing a Commissioner for Parliamentary Standards does not bode well for the ongoing development of a standards regime while the lack of strong HR support may limit future culture change in the parliamentary workplace.

There are different trajectories of reform in the UK, Canada and New Zealand, and the character of their standards regimes create distinct

challenges. Both the UK and New Zealand created new institutions to regulate the conduct of parliamentarians. They sit uncomfortably beside and largely distinct from the institution of parliament. There can be friction between these new formal institutions and longstanding formal and informal norms concerning parliamentary privileges and immunities, driving ongoing tensions about control and fairness. Achieving and maintaining consensus about the new institutions is proving difficult. It is yet another example of the issue of ‘the liability of newness’ and the particular vulnerability of gender equality reforms.⁴⁴ Creating a body with ‘ownership’ of the reform agenda, to drive culture change and be held accountable for its progress, may be one solution.

The Canadian standards regime lacks critical independence from parliamentarians and parties, potentially seriously weakening its effectiveness. It is nested within existing parliamentary institutions and hierarchies, again creating the problem of nested newness highlighted in feminist institutionalist theory.

As we shall see in Chap. 6, Australia drew on the experiences of other Westminster parliaments in creating its new standards architecture. At times it drew directly on wording used elsewhere and it took lessons from the challenges faced in the UK, Canada and New Zealand. However, it also took an innovative approach to HR, something from which other countries can learn. In addition, it featured a single authoritative cross-party body which has provided strong leadership of reform.

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Australia Catches Up, and What Hope for the Future?

Abstract While slow to begin, Australia has undertaken systematic standards reform since 2021. The Australian parliament is putting in place a set of interlocking new rules and institutions which aim to establish, for the first time, independent regulation and accountability in the parliamentary workplace. An authoritative cross-party body leads the reform process, providing a high level of accountability and driving consensus. The reform agenda draws on a more comprehensive review of parliamentary workplaces than seen elsewhere. The Jenkins Review framed parliament as a workplace in which rights to safety existed and it named gender inequality as a key driver of toxicity. Australian reformers drew on experiences in other Westminster parliaments, especially the UK. One of Australia's distinctive innovations is an independent centralised Human Resources (HR) body, able to make policies and mandate professional employment practices for parliament. While formal institutions have changed across the Westminster world, informal norms such as adversarialism are resilient. There is conscious policy borrowing amongst Westminster reformers, but improving toxic parliaments will be an ongoing project, requiring sustained and committed leadership.

Keywords Australia • Jenkins Review • Codes of conduct • Sanctions • Human resources • Forgetting the new

Australia was slow to start reforming its federal parliamentary workplace, compared to the other Westminster nations examined in Chap. 5. Of the four countries, Australia continued for the longest to use an appeal to parliamentary privilege against a parliamentary code of conduct, at least at the federal level. As we saw in Chap. 3, as late as August 2020 a Senate Committee was still arguing that the best scrutiny mechanism for the conduct of parliamentarians was regular, free and fair elections. Less than six months later there were demonstrations in front of parliament house over the lack of safety for women inside. Reforms began in 2021. They have been characterised by multiparty commitment and extensive consultation and negotiation to achieve consensus about the new arrangements, which are still being put in place in 2024. Through a process of policy borrowing, Australian reformers drew on the experiences of other Westminster parliaments, especially the UK.

Until recently the Australian federal parliament did not address issues of sexual misconduct and sexist behaviour in its workplace. Complaints about sexist treatment of women MPs over many years did not attract sympathy or provoke a serious reaction from within the federal parliament or the community. There was little response to allegations by two female staffers of sexual assault by other staffers, aired in 2019. However, events between November 2020 and February 2021 (described in Chap. 4) pierced the longstanding resistance to addressing sexist conduct in the Australian parliament. Parliamentarians were shaken by ministerial adviser Brittany Higgins' allegations that serious sexual assault had occurred inside the parliament building and disturbed at how poorly it was handled. This was more than salacious gossip; it pointed to serious workplace issues such as lack of a robust and trusted complaints mechanism and precarious employment conditions for staff (Higgins feared losing her job by reporting the events). It is true to say parliamentarians were shocked by the ensuing revelations of what one party leader called 'the atrocious and appalling' experiences of female staff in the parliamentary workplace.

The day after Higgins' televised allegations the Prime Minister launched a review of the procedures for reporting and responding to 'serious incidents that occur during parliamentary employment' to be undertaken by the Department of the Prime Minister and Cabinet. The government swiftly introduced a 24/7 support line for those working in parliament. There was immediate cross-party commitment to undertake a review of workplace culture, with the Labor Opposition leader offering 'to work with anyone in this building who wants to make this a safer and more

respectful workplace'. The government consulted with all parties and independent members and senators about a possible review.

Two weeks later, on 5 March 2021, the Government announced that an *Independent Review into Commonwealth Parliamentary Workplaces* would be conducted by the Australian Human Rights Commission and led by the Sex Discrimination Commissioner, Kate Jenkins. Often referred to as the 'Jenkins Review', it would consider the experiences of current and former parliamentarians, current and former staff of parliamentarians, and other staff working within parliament. The Government was anxious to have the review completed quickly so the issue could be resolved before the forthcoming federal election. The Commissioner negotiated a November deadline, along with the substantial resources she argued would be required for that 'impossible timeframe' to be met. Because of the need to obtain ethics clearance and establish a team from the ground up, the team of 20 staff were not in place until May. While the timeframe was thus compressed, the review was far better resourced and more comprehensive than reviews undertaken elsewhere. In New Zealand, for example, there had been a support staff of only two for the first Francis review.

REPORTS

By the end of 2021 two major reports were delivered. In June 2021 the Department of the Prime Minister and Cabinet delivered its report (*Review of the Parliamentary Workplace: Responding to Serious Incidents*) which led to the establishment of a Parliamentary Workplace Support Service in September. Located inside the parliament building, it was a complaints body tasked with providing 'independent and confidential support ... to all Commonwealth parliamentary workplace participants who have been impacted by serious incidents or misconduct, and workplace conflict that amounts to a work health and safety risk'. Being created while the Jenkins inquiry was still under way, it was reform nested within the existing institutional architecture, placed under the authority of the independent Parliamentary Service Commissioner (a statutory officer who oversees the employment of public sector staff working in the parliamentary departments).

Another immediate action was to extend the *Sex Discrimination Act* to members of parliament and their staff (and judges) in September 2021. Parliamentarians had previously not been protected by the Act, giving them no legal recourse to make complaints about sexual harassment.

The watershed moment came on 30 November 2021 when Sex Discrimination Commissioner Kate Jenkins presented the report *Set the Standard*, with 28 recommendations to ensure parliamentary workplaces were safe and respectful, reflecting ‘best practice in preventing and handling bullying, sexual harassment and sexual assault’.¹ Its recommendations were radical and wide-ranging, and included three new codes of conduct and an Independent Parliamentary Standards Commission to receive and investigate complaints about breaches of the codes, make findings of misconduct and recommend sanctions. It recommended an independent human resources office be established to manage staff employment, professionalise the workplace and drive cultural transformation. It recommended that parliament deliver a statement acknowledging experiences of bullying, sexual harassment and sexual assault and making a commitment to change.

The timing of delivery of the report was strategic. Jenkins was aware the report needed to be completed before parliament rose in December for its long Christmas break. By submitting the report on the second last sitting day of 2021, it could be immediately tabled before parliament rose for the summer. The report laid out a detailed plan of action and a time line, which meant action could begin without debate and there could be accountability for the nature and speed of parliament’s response.

On the first sitting day of the new year (8 February 2022) both houses of parliament delivered an acknowledgement of the ‘unacceptable history’ of bullying, sexual harassment and sexual assault in their workplaces and stated:

Any bullying, sexual harassment and sexual assault is unacceptable and wrong. We say sorry. ... This place and its members are committed to bringing about lasting and meaningful change to both culture and practice within our workplaces. We have failed to provide this in the past. We today declare our personal and collective commitment to make the changes required. ... While we know we cannot undo the harm that has already been done, we are committed to acknowledging the mistakes of the past and continuing to build safe and respectful workplaces.

The Speaker of the House of Representatives, the President of the Senate and major party leaders committed in parliament to implement all 28 recommendations of the *Set the Standard* report.

THE JENKINS REPORT: FRAMING THE PROBLEM

The Jenkins review differed in some ways from comparable inquiries in New Zealand and the UK. Commissioner Jenkins had delivered a major report on sexual harassment in Australian workplaces in the previous year (2020), revealing high levels of sexual harassment across all workplaces in Australia.² The Human Rights Commission had also reviewed the culture of the police, the defence force and sporting bodies such as gymnastics. It brought this expertise to the review and significantly, it framed parliament as simply another industry, characterised by certain risk factors and systemic problems which led to bullying and sexual harassment. Its focus was on parliament as a workplace that should be subject to the work and safety protections that exist in other industries (Fig. 6.1).

The Australian data collection was larger than for any comparable inquiry. As noted in Chap. 3, special legislation was passed in March making submissions to the inquiry exempt from Freedom of Information (FOI) requests, allaying fears of staffers over the confidentiality of their

Fig. 6.1 Sex Discrimination Commissioner Kate Jenkins undertook a landmark review of Australian parliamentary workplaces. (Photo: Kristoffer Paulsen)



submissions. The inquiry received over 900 survey responses from people currently working in parliament, undertook 490 interviews and led 11 focus groups. It found 37 per cent of people currently working in parliament had experienced some form of bullying in these workplaces and 33 per cent had experienced sexual harassment. Women had experienced bullying and sexual harassment at a higher rate than men, and people identifying as LGBTIQ+ reported sexual harassment at a higher rate than those identifying as heterosexual. Eighty-one per cent of harassers were male.

Unlike reviews in New Zealand and the UK, the Jenkins review focused on all the different actors within the parliamentary ecosystem, many of whom worked under different employment conditions. While reviews in New Zealand and the UK largely focused on the experiences of staff, the Jenkins review also included the experiences of parliamentarians. There is often little sympathy for female MPs who complain about the ‘rough and tumble’ of adversarial politics and women who complain about abuse in the chamber may encounter backlash. Staff are seen as more vulnerable, because of the extreme power imbalances in their employment relationships and precarious working conditions. Staff are also employees, seen as having the right to safe workplaces, a frame less likely to be applied to parliamentarians.

While reformers have been motivated by concerns for staff, the experiences of women parliamentarians also permeate the Jenkins Review. Its survey found 41 per cent of current parliamentarians reported having experienced sexual harassment in a parliamentary workplace and 16 per cent had experienced bullying. Sexual harassment was a major problem for women representatives. As many as 63 per cent of female parliamentarians had experienced sexual harassment within parliamentary workplaces compared to 24 per cent of male parliamentarians. Certain types of sexual harassment were far more likely to be experienced by parliamentarians than others, especially sexually explicit comments made in emails, SMS messages, on social media or other online channels. The broad focus of the Jenkins report allowed sexist conduct and discrimination against MPs also to be addressed in its recommendations.

Compared to other nations, Australia’s federal parliament has long suffered from a deficit in institutional leadership. Unlike the UK Parliament, which has the House of Commons Commission and House of Lords Commission, and the New Zealand Parliament, which has the Parliamentary Service Commission, the Australian Parliament does not have an overarching body responsible for its governance and management. The two

Canadian Houses of Parliament also have such governing bodies: the Board of Internal Economy (for the House of Commons) and the Committee on Internal Economy, Budgets and Administration (for the Senate). Although responsibility for managing the Australian parliamentary environment is vested in the Presiding Officers, they lack authority to act on behalf of all MPs and Senators. The lack of cohesive parliamentary leadership structures may have contributed to the slowness to reform the Australian parliamentary workplace. To begin, a leadership group had to be created.

NEW RULES AND STRUCTURES

Reforms in the Australian parliament occurred in the absence of pre-existing rules of behaviour or leadership bodies. They required new rules and structures to be built. A single cross-party cross-chamber leadership group was established specifically to steer the implementation of the Jenkins recommendations. The Parliamentary Leadership Taskforce (PLT) has been an effective innovation and is distinctive compared to leadership bodies in other parliaments: it includes parliamentarians from both chambers (the House of Representatives and the Senate) as well as ministers, and is led by an independent (external) chair. Its single focus and public reporting (including a monthly ‘Implementation Tracker’) creates strong accountability for its work.³

Unlike in other parliaments, the Speaker of the House and President of the Senate are not members of this leadership group. However, its nine members include people at the centre of power, such as Senator Katy Gallagher who combines the roles of Minister for Finance and the Public Service, Minister for Women and Manager of Government Business in the Senate. Also included are the Special Minister of State, key shadow ministers and other party leaders and deputy leaders, and Sharon Claydon, the Deputy Speaker of the House of Representatives. Almost exclusively comprised of female parliamentarians, it is an important new vehicle for women’s leadership, across parties and chambers, tasked with the job of reforming parliament and creating culture change. Its work has been characterised by sustained commitment to implementing the recommendations. Unfortunately, it will cease to exist when the main reforms have been initiated.

As part of the Jenkins Review implementation, a Joint Select Committee on Parliamentary Standards was created in February 2022 to develop codes of conduct for parliamentary workplaces, chaired by Sharon

Claydon. UK Parliamentary Commissioner for Standards Kathryn Stone gave evidence at its hearings and provided advice and submissions to the committee. It reported in November 2022 and then disbanded. The three proposed Behaviour Standards and Codes it developed were endorsed by both houses of parliament in February 2023: one for all who enter the parliament space, one for parliamentarians and one for staff.⁴ In early 2024, these codes were yet to take effect (they awaited a mechanism to enforce the codes and legislative change). However, the resilience of the idea that parliamentarians should be exempt from external scrutiny and regulation had collapsed.

Following the UK and New Zealand models, the committee drafted a Behaviour Code covering all those who enter parliamentary workplaces, which stipulates that they must:

- Act respectfully, professionally and with integrity
- Encourage and value diverse perspectives and recognise the importance of a free exchange of ideas
- Recognise your power, influence or authority and do not abuse them
- Uphold laws that support safe and respectful workplaces, including anti-discrimination, employment, work health and safety and criminal laws
- Bullying, harassment, sexual harassment or assault, or discrimination in any form, including on the grounds of race, age, sex, sexuality, gender identity, disability, or religion will not be tolerated, condoned or ignored.

Australian reformers consciously built on the work of other parliaments, drawing some phrases directly from codes in New Zealand, the UK and Canada. The code of conduct for parliamentarians of both houses states they must ‘treat all those with whom they come into contact in the course of their parliamentary duties and activities with dignity, courtesy, fairness and respect’, foster ‘a healthy, safe, respectful and inclusive environment’ and respect diversity in their workplace. The Joint Committee focused on discrimination and intersectionality in its report. The parliamentarians’ code of conduct states that ‘Bullying and harassment, sexual harassment and assault, discrimination in all its forms including on the grounds of race, age, sex, sexuality, gender identity, disability, or religion is unacceptable. Such behaviour will not be tolerated, condoned or ignored’. Staff of parliamentarians and of ministers will be bound by a code with similar conduct provisions.

Australia is distinctive in having elected representatives in both chambers regulated by the same code and both legislative and executive staffers under one code. This coherence is an advantage compared to the array of codes found in some other parliaments. However, the joint committee rejected the Jenkins Review recommendation that the staff code be legislated, instead suggesting it be placed in employment mechanisms such as contracts. This was a concession to staff concerns that it was unfair if a code for staff were enacted in legislation while the code for parliamentarians was enacted in standing orders, seemingly holding staff to a ‘higher standard than parliamentarians’.⁵

While the Australian Parliament lacked a code of conduct for parliamentarians before 2023, Australian Prime Ministers have issued codes of conduct for ministers since 1996. The ministerial code is issued and overseen by the Prime Minister and lacks any independent statutory or regulatory force. As mentioned in Chap. 4, Prime Minister Malcolm Turnbull inserted into it a prohibition on ministers having sexual relations with their staff. Labor Prime Minister Anthony Albanese issued a new ministerial code in June 2022 which kept the ‘bonk ban’ but included it more appropriately in a new section called ‘Safe and Respectful Workplaces’. This sets out the requirement for ministers to maintain a safe and respectful workplace for their staff, to ‘act consistently with all parliamentary resolutions relating to workplace culture’, to undertake mandatory training and to engage in good faith with an independent complaints mechanism.⁶

An Independent Parliamentary Standards Commission (IPSC) will be created to enforce the codes of conduct, investigate breaches and apply sanctions. However in early 2024 its development is still under way. While it follows the UK regime in being independent from MPs, it is unlikely to include lay members to the same degree. The Jenkins Report recommended the IPSC be a multi-member commission, with investigations by a single commissioner and appeals able to be made to a panel of other commissioners, to provide an appeals avenue without bringing the findings into the political arena. The Jenkins Report recommended a new Joint Select Committee on Parliamentary Standards have oversight of the IPSC. There are consultations and negotiations underway within the PLT about the scope of the body’s investigation function, delaying its planned establishment to October 2024. Some parliamentarians complain that progress has been far too slow. By the time it is established three years will have passed since the delivery of the Jenkins Report. Greens Senator and PLT member Larissa Waters said, ‘work to set up that body ... is complex, but there is no doubt it’s been too slow’.⁷

As has been seen in the UK and New Zealand, the independent complaint-handling body may prove to be the most difficult and controversial reform, and it may test parliament's current commitment to implementing all recommendations. It involves balancing the rights of parliamentarians with the need for independence from parliamentarians. In September 2023, former chair of the Joint Select Committee on Parliamentary Standards and member of the PLT Sharon Claydon urged parliamentarians to stay the course in developing the Commission and a range of enforceable sanctions, saying: 'That is a big body of work that is yet to be undertaken by this parliament. Not one of us should be under any false illusion here; that is critical work yet to be done... There is no place for us to get weak at the knees now'.⁸

A NEW APPROACH TO HR

One of the distinctive, and possibly most powerful, recommendations of Australia's Jenkins Report was to establish a new independent human resources organisation for staff and parliamentarians. The report made it clear, as also found in the UK and New Zealand, that many of the risks present in parliamentary workplaces arise from inadequate HR systems, under-resourced or non-existent induction, training and people management, and leadership skills deficits. Ministerial and electorate staff in Australia have reported that jobs are rarely advertised publicly and may lack any job descriptions, and parliamentarians often terminate staff contracts rather than managing workplace issues fairly.⁹ Professionalising employment practices is vital to creating safe workplaces and plays a key role in prevention of misconduct and culture change.

Previously in Australia the Department of Finance performed the role of administering staff employment and providing HR support, but since parliamentarians are the employers, it lacked the levers and controls that HR would usually have to influence workplace practices. Staff did not trust the Department and were critical of its weakness in being able to resolve issues, and inability to compel parliamentarians to take action, even when misconduct or poor practices were reported. The Jenkins Report argued the remedy was to give an HR body powers of compulsion and authority to drive accountability for professional workplace conduct. It stated that a new people and culture body should be able to compel compliance with required policies, influence standardised recruitment and career development practices, and drive the professionalisation of the workforce. While parliamentarians would retain flexibility and control

over employment decisions, they should be required to ‘consistently apply best practice employment principles’.¹⁰ Importantly, it would gather information about employment practices, addressing the concerns expressed by one staffer: ‘I want to know, and I want my MP to know, that someone is watching what they do inside the office’.¹¹

The new body, known as the Parliamentary Workplace Support Service (or PWSS) began on 1 October 2023, and is an independent statutory agency headed by an independent chief executive officer (CEO).¹² (It is built upon the small complaints service with this name established in 2021.) The government allocated \$51.7 million to establish and operate the new agency. The CEO cannot be directed by any person in the performance of their functions or exercise of their powers. Unlike HR units in other countries, it is entirely independent of parliamentary and executive governance structures, and derives its authority to make policies and practices mandatory through an Advisory Board (see Table 6.1). This four

Table 6.1 Standards reforms in Australia

	<i>Australia</i>
Codes of conduct for parliamentarians which reference sexual harassment and/or bullying	Ministerial Code of Conduct (2022); Behaviour Code; Code of Conduct for MPs and Senators; Staff Code of Conduct (all endorsed in 2023, not yet in standing orders or legislation)
When modern standards regime began	2021, but still being created by a single, effective cross party leadership group (Parliamentary Leadership Taskforce)
Anti-bullying and sexual harassment training	Mandatory for staff of legislators and ministers, but at present voluntary for parliamentarians
Distinctive features	High independence from parliamentarians: Independent Parliamentary Standards Commission (planned for October 2024); Independent centralised HR body (PWSS) for parliamentarians and staff with authority deriving from an Advisory Board external to parliament; A formal ongoing structure for consulting staff
Challenges within the standards regime	Independent Parliamentary Standards Commission not yet established The independent HR body (PWSS) may lack legitimacy, powers and the engagement of parliamentary actors Power asymmetries in staff employment have not been addressed

person Board consists of a Chair who is a former senior public servant, a former federal court judge, a former political staffer and a social inclusion policy expert, appointed by the Special Minister of State.¹³ The governance architecture includes a PWSS Consultative Committee, comprised of parliamentarians and staff members. Formalising ongoing consultation with staff is an important, and distinctive, feature of the Australian standards regime.

The CEO of the PWSS can make a training course, policy or procedure mandatory for parliamentarians only if the following process occurs: the CEO must consult the Consultative Committee about the proposal; and the Advisory Board must approve the proposal. The mandatory policy or procedure is then made by a legislative instrument, which means it can be disallowed by parliament, providing parliamentary oversight of these powers. Extensive consultation, and negotiations within the PLT, delivered consensus about the design and powers of the PWSS.

The structural independence of the new HR body is both interesting and potentially problematic. Its independence was deemed essential by stakeholders (staff and parliamentarians) in an extremely low trust environment, characterised by suspicion of any agency answering to executive government or which could be subject to political influence. However, its powers do not derive from the parliament, but rather from an Advisory Board, meaning it cannot draw on the authority of parliament for its decisions and for cultural leadership of the parliamentary workplace. Its decisions may be difficult to enforce, with its only recourse being to name non-compliant parliamentarians in a public report. It will be essential for parliamentarians and staff to see the body as legitimate and for strong engagement with all those in the parliamentary workplace if it is to effectively drive cultural change.

The PWSS is modelled on an existing independent regulatory agency that in turn was modelled on a UK precedent (see Chap. 4). The Independent Parliamentary Expenses Authority (IPEA) administers travel entitlements for parliamentarians and staff and while its role is educative and advisory it also enforces compliance. This requires a delicate balance and trusting relationships with parliamentarians. The PWSS is likely to face similar challenges in fulfilling both its supportive and prescriptive role.

As well as its cultural change and professionalisation mandate, the PWSS will advise on the new codes of conduct and receive and initially deal with complaints informally, before referring them for investigation by the Independent Parliamentary Standards Commission when it is created. Complaints can be received from the many groups of people working in

parliamentary workplaces, such as parliamentarians, staff, Parliamentary Service employees, volunteers, interns, journalists and café workers. It will also collect data and must report annually on key indicators of cultural change such as gender and diversity characteristics of parliamentarians and staff, gender equality of their remuneration, and responses to misconduct. These annual reports will provide a constant check on the progress of change. The PWSS will also develop policies and provide education and training.

It will be interesting to track the effectiveness of this innovative approach: resourcing and empowering an independent centralised HR body sitting outside the existing institutions of parliament and tasking it with cultural leadership of a space and body it does not inhabit. (Its main office will be located down the hill from the parliament building, with a small presence inside parliament house).

One of the significant drivers of toxicity for staff of parliamentarians and of ministers in Australia is their employment framework. They are employed under ‘events-based’ contracts which are relatively easily terminated, creating extreme power asymmetries with their employers. Under the *Members of Parliament (Staff) Act*, their employment can be terminated at any time. While no reasons are specified in the Act, in practice this can be due to office restructures, unsatisfactory performance, conflicts of interest or that the parliamentarian ‘has lost trust and confidence’ in the staffer.¹⁴ Recruitment or promotion is often done informally, based on patronage, reputation and loyalty, making it perilous to raise complaints. The Jenkins Report found there were ‘fundamental structural and functional limitations’ in the *Members of Parliament (Staff) Act* and recommended it be comprehensively reviewed, focusing on its governance frameworks, recruitment and employment security.¹⁵

The Department of the Prime Minister and Cabinet undertook the review in 2022 and, disappointingly, concluded that the framework of the Act was ‘broadly appropriate’ and recommended only a few significant changes. One was to insert employment principles, which set (non-binding) expectations for employment under the Act including that the workplace is safe, free from bullying, harassment and discrimination, and fosters diversity and a culture of professionalism and integrity. With regard to recruitment, before employing a person, parliamentarians must now ‘assess whether the person has the capability to perform the role’, suggesting job descriptions and selection criteria will be required when employing staffers. (This falls short of mandating external advertisement of staff positions, which was argued in many submissions to be important for bringing more diversity into the parliamentary workplace.)

With regard to the precarious nature of staff employment, amendments seek to slow down the termination process by requiring parliamentarians to consult the PWSS before ending a staffer's contract. Whether an MP does or does not consult the PWSS does not affect the termination but the PWSS may report a failure to do so publicly. Though this clause is meant to 'promote fair decisions about terminations of employment', the power remains solely in the hands of parliamentarians and it grants no greater employment security to staffers. A new power is given to the PWSS to suspend a staffer if their conduct poses risks to the workplace, addressing past situations where parliamentarians failed to act on allegations of misconduct by their staff. This can only occur, however, with the agreement of the employing parliamentarian. Overall, the amendments impose only light conditions on parliamentarians and don't unsettle the problematic power imbalances: agency within employment relationships remains firmly and solely in the hands of individual parliamentarians. While the PWSS may advise and possibly require certain practices, there are no consequences for non-complying parliamentarians, except for being named in a PWSS report.

DIVERSITY AND BEYOND

Three other recommendations of the Jenkins Review are notable. One was its identification of gender inequality and lack of diversity as causal factors in the toxic culture revealed in its surveys. It therefore recommended a 10-year strategy to advance gender equality, diversity and inclusion with targets to achieve gender balance and diverse representation amongst parliamentarians and their staff, and specific actions to increase the representation of first nations people, people from CALD (culturally and linguistically diverse) backgrounds, people with disability and LGBTIQ+ people. The Review argued that increasing diversity would improve the culture and safety of the parliamentary workplace. It recommended annual reporting of diversity characteristics. However, the PLT deemed diversity strategies to be outside its remit and a matter for political parties.

Second, the Review recommended that the standing orders and 'unwritten parliamentary conventions' be reviewed to improve 'everyday respect' in the parliamentary chambers and 'eliminate sexism and other forms of exclusion'. The House of Representatives Procedure Committee duly recommended that standing order 89 be amended to specify that sexist, racist, homophobic and otherwise exclusionary or discriminatory

language was offensive and thus prohibited in the chamber. The committee recommended the Speaker be given more power to deal with disorderly conduct in the chamber. While there was broad agreement to this change, the Opposition dissented from another of the Committee's recommendations—that a standing committee on gender equality, diversity and inclusion be established, to scrutinise the potential effects of proposed legislation and inquire into matters related to gender, diversity and inclusion. The committee's recommendations remain 'subject to ongoing consideration'.¹⁶ By contrast, the Senate Procedure Committee decided not to recommend any changes to its standing orders which it deemed 'sufficiently flexible' to prevent offensive language and conduct. Behaviour in the chamber is an arena that appears resistant to reform.

Thirdly, the Jenkins Review recommended these issues be kept on parliament's agenda. There should be an annual discussion in parliament of behaviour, conduct and workplace standards. This began in February 2023 and is planned for each February. It also recommended there be an external independent review of progress in implementing its recommendations. The PLT stated this would occur in April 2025.

The PLT plays a critical role in leading Australia's standards regime creation. It functions to iron out points of disagreement between parties early on and provides a forum to thrash out and resolve issues. It faces the challenges of consensus policymaking in a context of strong adversarialism, which may explain the slow pace of change. That it is led by an independent chair may be a feature of its success. It is also notable for creating a Staff Reference Group it consults on all proposals, comprising a wide range of staff in the parliamentary workplace, including Press Gallery journalists.

While slow to begin standards reform, Australia has seen systematic and radical change since 2021. Shocked by the experiences of staff and an outpouring of anger in the community, the Australian parliament is putting in place a set of interlocking new rules and institutions which will establish, for the first time, independent regulation and accountability in its workplace. In the absence of existing codes of conduct or leadership bodies, it is developing a more coherent and simpler system of rules compared to other countries and two new institutions with independent powers and roles: a standards body based on the UK model and an innovative central HR body with powers to mandate professional employment practices. Australian reformers hope that a well-resourced independent HR body will provide the support and guidance needed to improve the

parliamentary workplace and change its culture. The powers of the HR body, however, are drawn from outside of parliament itself, and ultimately rest on public naming and shaming of non-compliant parliamentarians. How effective it will be remains to be seen. The multiparty parliamentary leadership group leading the reforms provides a model for other countries. It is authoritative, includes legislators and ministers from both chambers, and has ownership of the reform process. Consulting and building consensus has drawn out the progress of reform but when legislation is introduced, it is quickly and unanimously passed. Unfortunately, the group lacks a continuing mandate, beyond the implementation of the Jenkins Review recommendations. Without effective ongoing leadership institutions, it is hard to know if this consensus will endure and if the Australian parliament will maintain, protect and develop its new rules and institutions.

PROSPECTS FOR REFORMING TOXIC PARLIAMENTS

This book introduced the concept of toxic parliaments. By extending our focus beyond parliamentarians to all those who work in parliamentary spaces, we can see that parliaments may be not only hostile but harmful and damaging to those who work within them. Extreme power differentials and lack of accountability can produce workplaces where bullying, sexual harassment and sexist misconduct is prevalent. Change is needed.

There have been significant reforms to standards regimes across the four Westminster countries focused on in this book. While in some cases rules and institutions have evolved slowly, in others change has been radical and dramatic. In the case of Australia, the events of 2021 can be seen as a critical juncture, with exogenous pressures helping to overcome resistance to independent oversight of parliamentary conduct, leading to the creation of new rules and institutions. Canada has not followed the same institutional path as the other nations, possibly due to the lack of an external review. Independent reviews, providing clear recommendations, help prompt and guide reform and provide a basis against which reformers can be held accountable.

All such reforms challenge long-standing gender norms and power hierarchies. Attempts to reform toxic parliaments are not settled. Viewing parliament as a workplace is a radical reframing of the institution, allowing the values of safety and respect to be activated as workplace rights. But the introduction of independent regulation of conduct involves shifts in power that are contested. Reform requires strong leadership by both men and

women, consensus building and cross-party commitment. Culture change is necessary but difficult to achieve and to track.

There has been notable structural change. The norm of parliamentary privilege, which allowed parliaments to self-regulate and resist external accountability for conduct, has ceded ground to legal and employment-based regulatory imperatives. Parliamentarians can now be held to account for providing a safe workplace, and independent regulatory bodies have been created (or planned) in all countries except Canada. In the UK, an independent Parliamentary Standards Commissioner can evaluate the conduct of parliamentarians, and recommend sanctions. Australia and New Zealand plan to follow this model, though their institutions are in their infancy or not yet in place. The protracted negotiations in New Zealand to establish a Commissioner for Parliamentary Standards, and the recent challenges to the authority and role of the Commissioner in the UK, demonstrate the tension surrounding such a model, which must balance independence with fairness to parliamentarians. The current UK House of Commons review of ‘the landscape of bodies and processes that have some role in regulating the conduct of MPs’ shows that new institutions must evolve over time but also may need to restate and bolster their legitimacy, when under challenge.¹⁷

Some structures that generate toxicity remain resilient. For the staff of legislators and ministers, while institutional remedies have been created in the form of codes of conduct and independent complaints bodies, the inherent power imbalance in their employment models remains intact. In her 2023 follow-up report on culture in the New Zealand parliament, Debbie Francis argued the employment model for staff needed transformative structural change, as it was one of the ‘deep drivers of a less than healthy culture’, creating risks for workplace toxicity, bullying, sexual harassment and sexist misconduct.¹⁸ While she found there was a safer and more respectful culture in the New Zealand parliament than in 2019, she attributed this to the efforts of individuals, rather than fundamental change. There is little appetite for change to the employment framework for political staff in New Zealand, despite the extreme power imbalance being a recognised source of toxicity, and this is also true in Australia and elsewhere.

Francis felt these inherent risks could be mitigated by significantly improved HR functions. The centrepiece of the unfolding Australian standards architecture is a centralised and independent HR body, drawing its authority to impose policies and practices from an external advisory board.

It has been allocated substantial funding. In her 2023 report, Francis strongly supports this approach. It will be important to track whether this institutional innovation effectively performs its envisioned role.

One of Francis's insights, like those of Gemma White QC in the UK, is that very few staff are likely to make formal complaints due to the precarious nature of their employment, low trust in complaints channels and the high stakes consequences of speaking up. For this reason, Francis argues HR bodies need to carefully track 'weak signals and emergent risks',¹⁹ emphasising the importance of data collection and surveys by well-resourced HR bodies in preventing misconduct and responding to it.

There has been significant policy learning and policy borrowing within the Westminster world as standards institutions evolve—for example, Australia and New Zealand drew on the UK's model of an independent standards body. Other countries may learn from Australia's experiment with an empowered independent HR agency and its reform leadership.

As emphasised within feminist institutional theory, the way formal institutions operate depends on their interaction with informal norms and practices. Adversarialism is a norm with a long history and importance in Westminster systems and one which works against the cultural change sought by new standards regimes. It sustains a gendered logic of appropriateness within these parliaments. A classic example of 'remembering the old and forgetting the new' occurred during the 2023 debate in the Australian Parliament, endorsing new codes of conduct for parliamentarians and staff. Major and minor party leaders as well as a representative of the cross bench joined in praising the cross-party work that had been done to make the parliamentary a safer and more respectful workplace. The Leader of the Opposition shared in this non-partisan approach—so vital for parliamentary reform—but then lapsed into partisan point scoring, blaming the shortfall of conservative women in parliament on the fact that: 'women of centre-right views are subjected to some of the disgusting vitriol online and on social media dominated by the extreme and vociferous Left'.²⁰ The representative of the cross bench assured the Leader of the Opposition that it was women across the political spectrum, not just conservative women, who were receiving 'a revolting amount of vitriol and abuse on line' and that leaders needed to set the standard.

One area that highlights the tension between existing norms and new standards of 'everyday respect' is that of parliamentary language. While standing orders prohibit offensive language or personal reflections on members, such as calling them a 'liar', the rules have not kept up with the

increased diversity of parliamentary representation. In pursuing improved ‘everyday respect’ within these more diverse parliaments, some countries propose to ban parliamentarians from subjecting others to ‘unreasonable and excessive personal attacks’ as well as to prohibit language that is sexist, racist, homophobic and otherwise exclusionary or discriminatory. This challenges a parliamentarian’s traditional right to express ‘robust views without fear or favour’.²¹

The distinction between legitimate robust debate and sexism or bullying remains contested ground, as can be seen in several Australian cases. In October 2022, almost a year after the Jenkins Report had been delivered, conservative MP Michelle Landry accused Prime Minister Albanese of bullying during Question Time in parliament. She had left the chamber distressed after the Prime Minister answered her question in an aggressive tone. At a media conference she said: ‘He was yelling at me, he was pointing at me. ... I’ve been humiliated in front of the whole parliament ... he was looking at me and screaming at me’.²² Despite this complaint occurring in the midst of parliament’s focus on improving conduct, the Speaker of the House said he did not believe the Prime Minister had shown disrespectful behaviour.

In September 2023, only hours after the House of Representatives had passed the bill to establish the new PWSS, supported by many parliamentarians advocating culture change, Kylea Tink MP rose to complain about ‘confronting’ treatment she had experienced the previous day in the chamber. Not only was the tone of the debate ‘overly aggressive and personalised, with numerous examples of condescending and offensive language ... designed to intimidate others’ but after voting she had been attacked personally by another MP who ‘yelled aggressively’ at her as they returned to their seats. She said she ‘did not feel safe’, but when she reached out to the PWSS for support, she found it had no remit within the chamber.²³ The new willingness to call out bullying in the chamber marks a change in long-standing Westminster norms. Norm change can be slow, but it begins with naming certain behaviours as unacceptable.

It remains difficult to recognise and prevent bullying inside parliamentary chambers and to draw boundaries around the tradition of ‘robust’ debate protected by parliamentary privilege. Palmieri argues that while such political combat in parliamentary chambers may be ‘theatrical’ it normalises conduct that may leak from chambers to other parliamentary workplaces, and it can have a devastating impact on those against whom it is directed.²⁴ Bullying of witnesses can also discourage participation by civil society groups in parliamentary committee hearings.

Parliaments are gendered institutions animated by long-standing conventions, norms and practices. These are under challenge, but as this book shows, informal norms and practices remain embedded and potent in Westminster countries. The dynamic of partisan adversarialism remains as strong as ever. Its gendered effects include the masculine bias of performance standards ('claiming scalps'), the weaponising of sexual gossip and the viewing of issues of misconduct through a partisan lens.

Much work has been done to change parliaments from a masculine domain into a workplace that is more inclusive and family friendly. But to ensure parliaments are no longer toxic, and to strengthen and maintain new standards regimes, more needs to be done to challenge the gendered logic of adversarialism so central to the Westminster tradition.

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