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Making Sense of the Effects of #MeToo on Parliamentary Reform

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Abstract

The #MeToo movement and revelations of sexual harassment and bullying have spurred reform of the parliamentary workplace in a number of Westminster countries. The backdrop includes extreme power imbalances between parliamentarians and staff and a lack of professionalised employment practices. Codes of conduct and independent oversight bodies had been 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 adversarial politics, the so-called logic of appropriateness, also contributed to silence over gendered mistreatment. The increased presence of women and other forms of diversity did not have the expected effects, thanks to the resilience of institutional norms and practices – a less positive aspect of resilience than in the title of this conference.

This paper focuses on the dramatic developments in Australia after angry women marched on parliament houses in 2021. A critical juncture was created, with a loss of public confidence in the safety of the parliamentary workplace creating opportunities for change. The paper explores ways in which parliaments in Australia and beyond have responded to escalating evidence of misconduct, including the role of independent reviews and critical actors. It pays particular attention to issues of timing and sequence. For example, the relatively rapid response in the UK meant a model was available for policy borrowing when #MeToo arrived somewhat later in Australia. Also important was the pre-existing international norm of the ‘gender-sensitive parliament’, developed before #MeToo went global and serving as a reference point for reform. The paper ends with some reflections on the possibilities for lasting institutional change and the dangers of ‘remembering the old and forgetting the new’.

Introduction

In October 2017 the #MeToo movement went global, thanks to Twitter. It was a form of consciousness-raising greatly accelerated by the digital sharing of personal testimony. In the European Parliament women parliamentarians held up signs saying ‘#moiaussi’ and ‘#yotambien’. In the same month, both women parliamentarians and women staffers in many countries began breaking the silence over their own experience of sexual harassment. In the UK a list of misconduct by Tory MPs hit the headlines and led to the renaming of Westminster as ‘Pestminster’.

How did parliaments respond to these revelations? In this paper I focus on the response by the Australian Parliament, paying particular attention to how the arrival of #MeToo created a crisis of trust (a critical juncture) and the opportunities this opened up for critical actors. Issues of timing and sequence will also be important to this story, whether the pre-existence of accepted international norms of the “gender-sensitive parliament” or the creation of a UK model available for policy borrowing. In general, we can distinguish between the way parliaments responded to scandals before and after the arrival of #MeToo. Before #MeToo, parliamentary reformers had a particular focus on developing standards and oversight to deal with financial misconduct by parliamentarians. After #MeToo, the focus shifted to bullying, sexual harassment and sex-based harassment in the parliamentary workplace. In both cases reform was only instituted after scandals hit the headlines.¹

The creation of the UK model

In October 2017, #MeToo reached the UK. A list of alleged misbehaviour by 36 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’. A network called #LabourToo was also collecting testimonies and posted 43 stories of sexual harassment, abuse and discrimination in the Labour Party. The hashtags #TorySleaze36 and #LabourToo went viral on social media.²

In the midst of these Westminster scandals, UK Prime Minister Theresa May called on the Speaker to establish a complaints procedure and a number of inquiries were established, including one chaired by the Leader of the House of Commons, the Right Hon. Andrea Leadsom. Such was the evidence it collected of experience of bullying, harassment and sexual harassment that by 2018 a new behaviour code and independent complaint-handling scheme had been adopted, the Independent Complaints and Grievance Scheme. It was

¹ Marian Sawyer and Maria Maley (2024). *Toxic Parliaments And What Can Be Done About Them*. London: Palgrave Macmillan, Ch. 4.

² Christina Julios (2022). *Sexual Harassment in the UK Parliament: Lessons from the #MeToo Era*. London: Palgrave Macmillan, p. 19

subsequently strengthened as other inquiries, including those by Dame Laura Cox and by Gemma White QC highlighted the importance of independent complaint-handling by other than parliamentarians and the need to encompass historic cases.³

It has been argued that the reason that the UK was able to move so quickly on the #MeToo revelations was a preceding history of establishing codes of conduct and independent oversight bodies. While other Westminster parliaments continued to appeal to parliamentary privilege to fend off oversight, the UK parliament had led the way in creating independent oversight bodies. The cash for questions scandal of 1994 led to the drafting of 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 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.⁴ 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 UK Parliamentary Commissioner for Standards scope to deal with issues of sexual as well as financial misconduct had been blocked by all three major parties.⁵ However, the Westminster scandal of 2017 was a critical juncture and the precedents were 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'.

³ Dame Laura Cox (2018). The Bullying and Harassment of House of Commons Staff. Independent Inquiry Report. <https://www.parliament.uk/globalassets/documents/conduct-in-parliament/dame-laura-cox-independent-inquiry-report.pdf> ; Gemma White QC (2019). *Bullying and harassment of MPs' parliamentary staff*. Independent Inquiry Report, p. 5. https://www.parliament.uk/globalassets/documents/conduct-in-parliament/gwqc-inquiry-report-11-july-2019_.pdf

⁴ See Tracey Raney and Cheryl N. Collier (2022). Privilege and gendered violence in the Canadian and British Houses of Commons: A feminist institutionalist analysis. *Parliamentary Affairs*, 75(2):382–399.

⁵ Mona Lena Krook (2018). Westminster Too: On sexual harassment in British politics. *Political Quarterly* 89(1): p.66.

Meanwhile, in Australia the tradition of parliamentary privilege continued to be invoked when proposals were put forward for a code of conduct. Such proposals had been put forward from the 1970s onwards but were consistently rejected. A code of conduct had even been included in agreements to ensure support for a minority Labor government in 2010 – but never eventuated. As late as August 2020, it was asserted by the Senate Finance and Public Administration Legislation Committee that the best form of accountability was free and fair elections: ‘Parliamentarians are ultimately answerable to their constituents, not each other’.⁶ Only women marching on parliament seemed sufficient to overcome institutional inertia and belief that accountability for conduct at the ballot box was sufficient to ensure adequate standards.

The delayed arrival of #MeToo at the doors of the Australian Parliament

After the #MeToo movement went global, some Australian women parliamentarians began raising the issue of bullying and sexual harassment but the press gallery was still inclined to interpret such speaking out in partisan and factional terms, rather than anything else.

For example, in 2018 some Liberal women parliamentarians complained of bullying and intimidation during a leadership contest but were told this was not an example of sexism but rather of the rough and tumble of politics and the adversarial nature of the Westminster tradition.⁷ In the same year Greens Senator Sarah Hanson-Young sued Senator David Leyonhjelm for defamation for repeating outside parliament a comment he had made in the chamber implying she had numerous sexual relationships with men. Senator Hanson-Young eventually won her case in the Federal Court where Senator Leyonhjelm's attempt to invoke parliamentary privilege was unsuccessful.

⁶ Senate Finance and Public Administration Legislation Committee (2020). *National Integrity (Parliamentary Standards) Bill 2019*, p. 19.

⁷ Jasmin Sorrentino, Martha Augoustinos and Amanda Le Couteur (2022). The cost of doing politics. A critical discursive analysis of Australian liberal politicians' responses to accusations by female politicians of bullying and intimidation. *Australian Journal of Social Issues* 57(3), p. 535.

Yet it was only when staffers added their voices that anger took off. Interestingly, the role of parliamentary staffers was also crucial in the response of the European Parliament to #MeToo revelations. While elected members of the European Parliament revealed their own experiences and passed a resolution on combating sexual harassment it was staffers who organised a successful campaign for measures to implement the resolution.⁸ Similarly in the UK, it was staffer networks that triggered the Pestrminster scandal of October 2017.

In November 2020 a program was broadcast on ABC television 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.⁹

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. Until 2022 it dealt primarily with conflict of interest issues the only exception being the prohibition of ministers having sexual relations with their staff, the so-called 'bonk ban' inserted by Prime Minister Malcolm Turnbull into the code in 2018. The relationship between the minister and staffer revealed in the Canberra Bubble program took place before the 'bonk ban' was introduced.

At the beginning of 2021, the very public testimony of Australian of the Year, Grace Tame, about her experience of sexual assault by a teacher, inspired a former Liberal Party staffer, Brittany Higgins, to make a similarly public revelation of her own experience in Parliament

⁸ Valentine Berthet (2022). Mobilization against Sexual Harassment in the European Parliament: The MeTooEP Campaign. *European Journal of Women's Studies* 29(3): 331–346.

⁹ Jess Hill (2021) The Reckoning: How #MeToo Is Changing Australia. *Quarterly Essay* 84: 1-131.

House. She alleged on television she had been raped two years before 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.¹⁰

The revelations of these two young women, Grace Tame and Brittany Higgins, 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'.

[Photo about here]

Like #MeToo, the Australian March4Justice began with a tweet, but hit the headlines with protest events in over 40 cities and towns. This kind of community mobilisation around gender issues in the parliamentary workplace was unique to Australia. 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. Meanwhile, inside the chamber, cross benchers held up 'Enough is Enough' signs in support of the marchers outside.

[Photo about here]

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 and they also spoke out in a four-part television documentary, *Ms Represented* that appeared mid-year.¹¹

However, even when a Prime Minister had called it out, as Prime Minister Julia Gillard had

¹⁰ Samantha Maiden (2021). Young staffer Brittany Higgins says she was raped at Parliament House. News.com 15 February. <https://www.news.com.au/national/politics/parliament-house-rocked-by-brittany-higgins-alleged-rape-news-story/fb02a5e95767ac306c51894fe2d63635>

¹¹ Annabel Crabb (2021) *Ms Represented*. ABC TV. <https://iview.abc.net.au/show/ms-represented-with-annabel-crabb>

done in her world-famous 'Misogyny' speech, this was not successful in politicising misconduct in the parliamentary workplace in the way that March4Justice was.¹²

The role of the media

One of the factors enabling the March4Justice to trigger parliamentary reforms in Australia in 2021 was the increased preparedness of the press gallery to treat allegations of sexist misconduct in parliament as serious political issues. There were now a number of senior women journalists prepared to break the tradition of silence over the sexual behaviour of politicians. Conventions of parliamentary reporting, exacerbated by collocation inside parliament house, had previously inhibited the application of gender analysis to parliamentary culture.

Senior journalists who took up the issue of sexual misconduct included Louise Milligan, responsible for the 'Inside the Canberra Bubble' program already mentioned, Samantha Maiden and Lisa Wilkinson, who both received media awards for breaking the Brittany Higgins story, Katharine Murphy who did powerful analysis of its political implications and Annabel Crab, whose four-part documentary *Ms Represented* featured powerful footage including of a former Liberal woman MP saying that the Australian Parliament had 'the most unsafe workplace culture in the country'. At the beginning of 2022, 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. Issues relating to gender remained salient in the ensuing election campaign, more so than in any federal election campaign since 1972.

The role of the journalists mentioned here, along with Higgins and Tame and key political actors was celebrated in a 'Fight Like a Girl' tea towel that went on sale at the Museum of

¹² Rachel Busbridge (2024). Gender, Political Citizenship and Intersectional Feminism in Australia: #MeToo and the March 4 Justice. In Birte Siim and Pauline Stoltz (eds) *The Palgrave Handbook of Gender and Citizenship*. London: Palgrave Macmillan, p. 260

Australian Democracy. This tea towel gave a central role to journalists who outnumbered the political actors depicted. It is probably the first time that female political journalists have been celebrated on a tea towel in a democracy museum. They helped make women's safety in the parliamentary workplace a significant political issue in the run up to the 2022 federal election.

[Photo of tea towel about here]

Other critical actors

The March4Justice movement and the mediation of issues of sexual harassment and women's safety by senior political journalists ensured the salience of the issues in the lead up to the 2022 federal election, particularly for women.¹³ This crisis of confidence created what is called by new institutionalists a 'critical juncture', creating opportunities for critical actors to overcome institutional inertia and bring about change.

In response to the bombshell of the Brittany Higgins allegations Prime Minister Scott Morrison had come under increasing pressure to do something about women's safety in the parliamentary workplace. He initiated a number of internal reviews but this attempt at political management of the issue failed to stem public criticism; finally an independent review was commissioned to be conducted by the Sex Discrimination Commissioner, Kate Jenkins.

Jenkins proved to be a highly strategic critical actor. She was an experienced employment lawyer whose landmark 2020 *Respect@Work* report had found that one in three Australian workers had experienced sexual harassment in the previous five years. A central recommendation was for employers to have a positive duty to prevent sexual

¹³ Nicholas Biddle and Matthew Gray (2022). Australians' views on gender equity and the political parties, 17 May. Canberra: Centre for Social Research and Methods, The Australian National University. <https://csmr.cass.anu.edu.au/research/publications/australians-views-gender-equity-and-political-parties>

harassment. This had not yet been enacted when it became even more relevant to the Australian parliament itself.

The Government was anxious to have the review of Commonwealth parliamentary workplaces completed quickly so the issue would be out of the way before the forthcoming federal election. The Commissioner argued that substantial resources would be required for such an impossible timeframe to be met. A team of 20 staff were soon in place and so the review was far better resourced and more comprehensive than reviews undertaken elsewhere (for example in New Zealand there were only two support staff for the first Francis review).

Special legislation was also passed to make submissions to the Jenkins Review exempt from Freedom of Information (FOI) requests. This was essential for parliamentary staffers to feel comfortable in participating and, in the event, over 1700 individuals participated in the review, a majority of them current or former staffers but also 147 current or former parliamentarians.

The 450 page *Set the Standard* report presented extensive evidence of bullying, sexual harassment and sexual assault and a lack of trust in existing complaint-handling processes. It made 28 recommendations for professionalising employment practices and improving workplace culture.¹⁴

There were advantages from the comparatively late arrival of #MeToo. The review was able to draw on reforms already adopted in other Westminster parliaments, particularly in the United Kingdom as well as making reference to the standards adopted by the Inter-Parliamentary Union. It recommended that codes of conduct be adopted and an Independent Parliamentary Standards Commission be established to enforce them. It also recommended an independent HR body to manage staff employment for

¹⁴ Kate Jenkins (2021). *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*. Australian Human Rights Commission. <https://humanrights.gov.au/set-standard-2021>

parliamentarians. The recommendations included detail on implementation, for example the establishment of a cross-party Parliamentary Leadership Taskforce with an independent chair to chart progress and publish quarterly tracking information.

The *Set the Standard* report was presented to government at the end of November 2021 and by February 2022 the Parliamentary Leadership Taskforce had been set up and the presiding officers delivered the recommended statement acknowledging the ‘unacceptable history of workplace bullying, sexual harassment and sexual assault in Commonwealth Parliamentary Workplaces’. It included a commitment to implementing all of the recommendations within the time frame recommended by Jenkins. A Joint Select Committee on Parliamentary Standards was set up at the same time to develop the recommended codes of conduct. Despite a change of government in 2022 progress continued apace and the new HR body was established as an independent statutory agency in 2023.

The one major hold up was with establishing the Commission. While the Leadership Taskforce was intended by Jenkins to embody and ensure cross-party support for the reforms, the need to arrive at consensus caused significant problems. While the codes of conduct for parliamentarians, parliamentary staff and for the parliamentary precincts were endorsed in February 2023, the body that could impose sanctions for non-compliance was not in existence for another 18 months. In the meantime, the incorporation of the code for parliamentarians into the relevant Standing Orders had to wait. The loss of momentum was in part due to the revival of fears that giving an independent body power to recommend sanctions for parliamentarians would impinge on parliamentary privilege.

Remembering the old and forgetting the new

The Coalition was concerned that giving the Commission the power to recommend sanctions for parliamentarians would weaken the protections and privileges inherited from the seventeenth century. The Coalition was insistent that the primacy of parliament in managing its own affairs meant that parliament needed to both oversee the Commission

and determine any punitive sanctions on its own members.¹⁵ On the other hand, the Greens suggested that leaving Privileges Committees in charge of the conduct of parliamentarians was like leaving the fox in charge of the henhouse.¹⁶

The Greens and Independents were unsuccessful in seeking greater power for the Commission to recommend sanctions for parliamentarians and for transparency if the recommendations were not accepted. As legislated in September 2024, the Commission could only report findings to Privileges Committees, not recommend sanctions as recommended by *Set the Standard* or as in the UK, and there was no guarantee that findings would be made public. Decision-making over serious breaches by parliamentarians, was to be in the hands of parliamentarians only, without the independent element regarded as essential in the UK model. Nor was there provision for independent membership of the statutory oversight body, the Parliamentary Joint Committee on Parliamentary Standards. Indeed, the legislation stipulated that all members must be members of a Privileges Committee and that the Deputy Chair be a member of the Opposition. This is quite unlike the UK where half of the Parliamentary Standards Committee are non-parliamentarians.

This was a disappointing outcome for those who had been demanding greater accountability for parliamentary conduct, including Transparency International, Fair Agenda and the Australian Democracy Network. In the rushed debate in September 2024, the Independents also expressed their disappointment that nothing had yet been done about the conduct of parliamentarians in the House of Representatives, pointing out that over 200 politicians had been thrown out of the chamber since May 2022 and it was high time for the new code of conduct to be embedded in Standing Orders. Because the community Independents had not come up through the party system it seemed they were much less accepting of the adversarial political culture.

While there had been some inroads into the tradition of parliamentary privilege and self-regulation, there is still resistance to greater accountability for misconduct. This is

¹⁵ Senator Jane Hume, *Senate Hansard*, 12 September 2024.

¹⁶ Senator Larissa Waters, *Senate Hansard*, 12 September 2024.

exacerbated by the continuing strength of the norms of Westminster adversarialism. While the exogenous shock of the March4Justice created an extraordinary level of cross-party consensus and co-operation in implementing ambitious reform proposals, momentum was soon lost.

Already by early 2023 when the houses of parliament endorsed the new codes of conduct, the brittle nature of this cross-party consensus became evident. Major and minor party leaders as well as a representative of the Independents joined in praising the cross-party work to make the parliamentary a safer and more respectful workplace. But before finishing his speech the Leader of the Opposition lapsed into partisan point scoring, blaming the Left for vitriol on social media and the shortfall of conservative women in parliament.¹⁷ It remained for the Independents' representative to point out that it was women across the political spectrum who were subject to 'a revolting amount of vitriol and abuse online'.¹⁸

The Australian story of parliamentary reform relating to bullying and sexual harassment is both similar and different to that of other Westminster parliaments. #MeToo took a bit longer to arrive but when it did it inspired angry women to march on parliament – something that didn't happen elsewhere. Serious treatment of the issues by senior women political journalists and skilful negotiation by the Sex Discrimination Commissioner were also important. The shock led to a comprehensive independent review and then a commitment by all political parties to its ambitious recommendations and timetable. Women played a major role in the implementation of the reforms and were eight of the nine members of the Parliamentary Leadership Taskforce.

Photo of Taskforce here.

Considerable progress was made in professionalising the workplace and clarifying regulatory coverage of parliamentary employment issues. However, the difficulty of achieving cross-party consensus in the Leadership Taskforce and consequent loss of momentum meant fewer powers for the Commission and less transparency than many wanted.

¹⁷ Peter Dutton (2023). Parliamentary Standards. *House of Representatives Hansard*, 8 February.

¹⁸ Zali Steggall MP (2023). Parliamentary Standards. *House of Representatives Hansard*, 8 February.

One paradox was that the code of conduct adopted for parliamentarians did not encompass the conflict of interest issues which had been at the heart of codes of conduct adopted before 2017. Such issues were central to the statement of ministerial standards adopted by the Howard Government in 1996. And after #March4Justice and the *Set the Standard* report the Morrison Government added a section in 2022 on 'Responsibilities as employer'. After the election of that year the new Albanese government updated this again, calling the section 'Safe and Respectful Workplaces'. So at least for ministers Australia now had a code of conduct that combined conflict of interest and employment issues. The only problem was that the ministerial code of conduct was arbitrated only by the Prime Minister, not by any independent body such as the Commission.

Perhaps only another major scandal would create the critical juncture for further reform. In the meantime, Westminster traditions proved remarkably resilient despite the changing face of parliamentarians and staff.