

# Institutionalising women's experiences in law: Possibilities and pitfalls of parliamentary gender audit committees

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## Abstract

Feminist legal scholars have long recognised that law is gendered, being a manifestation of power that often works to the detriment of women. This need not be the case. This article tests the capacity of law to make a material difference on women's lives through parliamentary auditing. The arguments springboard from an innovation emerging in Tasmania in 2022: a Gender and Equality Audit Committee in the Tasmanian Legislative Council. Alongside the Australian Capital Territory's Standing Committee on the Economy and Gender and Economic Equality, these Australian examples provide a framework to interrogate the possibilities for inclusive, gendered legislative scrutiny.

## Keywords

Gender audit, gender, parliamentary scrutiny, women's lived experiences

It has been several years since the call was made, including in this very journal, for parliamentarians to bring a gender perspective to law-making.<sup>1</sup> Yet even if legislators in Australia knew how to interrogate law for its likely impact on the lives of a diversity of women, legislators do not yet have the institutional channels to formally proceed. That is, Australian state and territory legislatures and the federal Parliament lack the institutional settings to bring the perspectives of women (understood to include all female-identifying individuals) to the legal drafting table.

In June 2022, a successful motion before the Tasmanian Parliament led to the creation of Australia's first state-level Gender and Equality Audit Committee (Tasmanian Committee). As the only committee with a standalone focus on gender in any state, territory or federal Parliament of Australia, the Tasmanian Committee has the potential to be a trailblazer in Australia and therefore a major step forward that cannot be overlooked. The idea of a parliamentary committee vested with the role of auditing for gendered

impacts, however, was not an entirely new endeavour in Australia. Since 2020, the Australian Capital Territory (ACT) Legislative Assembly has had in place an 'Economy and Gender and Economic Equality' Standing Committee. The ACT Committee audits bills but with a significantly broader scope than the Tasmanian Committee, examining bills that concern economic development, tourism, industrial relations and workplace safety as well as 'gender considerations' of economic policies, among other matters.

The federal Parliamentary Joint Committee on Human Rights (PJCHR), established in 2012, could potentially cover similar ground in its examination of the compatibility of Bills and legislative instruments with human rights. Nonetheless, a comparative study of Scotland and South Africa by Jacqueline Mowbray, the current external legal adviser to the PJCHR, has illustrated the limited capacity of Australia's PJCHR to adequately bring to its auditing issues of direct and indirect discrimination that women face, in line with Australia's obligations under the Convention on the

<sup>1</sup>Ramona Vijeyarasa, 'Making the Law Work for Women: Standard-Setting through a New Gender Legislative Index' (2019) 44(4) *Alternative Law Journal* 275.

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Elimination of All Forms of Discrimination against Women.<sup>2</sup> The PJCHR, for instance, when auditing a Bill that proposed the automatic deduction of rent and other household payments from social security payments or the family tax benefit, overlooked the reality that the majority of tenants in social housing are women.<sup>3</sup>

Tasmania therefore offers the potential to generate important lessons for Australia federally. In numerous contexts, Australian states and territories have led the way in progressing legislation ahead of federal-level reform. The ACT enacted a *Human Rights Act*<sup>4</sup> in 2004 while, in 2006, Victoria enacted a *Charter of Human Rights and Responsibilities Act*.<sup>5</sup> Queensland followed in 2019.<sup>6</sup> While these developments have not been without flaws,<sup>7</sup> the absence of a federal charter of human rights remains a persistent disappointment for human rights advocates in Australia. With the PJCHR's Inquiry into Australia's Human Rights Framework underway,<sup>8</sup> these state and territory experiences can inform federal practice. The same can be said of Victoria's leadership in enacting a *Gender Equality Act* in 2020,<sup>9</sup> another example where progress at a state level provides a platform for the Commonwealth to learn how best to regulate for gender equality in the public sector.

This article, however, does not blindly accept that the mere creation of institutional settings in parliaments is sufficient to deliver more egalitarian laws. It seeks to raise fundamental questions about the impact of gender audit committees and their effectiveness in bringing diverse voices into the legislative process. In particular, greater interrogation is needed concerning which bills are audited; the extent that legislation is improved by committee work; the processes, if any, to account for women's lived experiences of law; and the way that gender is understood by committees. This article comes at an optimum moment for Australia – one year after Tasmania's innovation, and at a time when gender equality is back on the table at the federal level.

## From a woman's standpoint to gendered experiences in law

Law's capacity to correct inequality remains a point of contention among legal scholars. Pioneers sought a place for women in the law many years ago.<sup>10</sup> To some, bringing a woman's standpoint to law remains an ongoing battle. Law is yet to reach its optimum potential to advance the specific interests of women and needs constant revision and further debate.<sup>11</sup> We are warned that law is too 'deaf to core concerns of feminism'<sup>12</sup> and cautioned not to work within a broken system. Nonetheless, other scholars have sought to reimagine a place for women in legislative debates.<sup>13</sup> Being pragmatic, a middle ground can be sought: law has limitations as an institution but, as legal scholars, we must simultaneously see both the oppressive harm *and* the value of the legal system for gender equality.<sup>14</sup> Today, scholars continue to reimagine a place for women in a diversity of legal domains<sup>15</sup> and parliamentary auditing offers an underexplored way to operationalise these theories and re-centre women in law.

Importantly, since these earlier scholarly debates, there has been a notable evolution in how the concept of 'gender' in the law is understood. Is bringing a 'gender perspective' about women or about gendered differences? Jurist and legal scholar, Hilary Charlesworth urges us to go beyond asking 'what about women' to ask about the gendered organisation of society.<sup>16</sup> Further, in a social context that has moved away from gender binaries, feminist scholars seek to bring gendered perspectives that are typically absent in law, including for transgender women and gender-diverse people more generally. For instance, while the inadequacies of paid maternity and paternity leave schemes have occupied a considerable body of scholarship,<sup>17</sup> including the inequalities that often result in how childrearing responsibilities are distributed in different-sex couples, there is an evident need to examine the extent to which

<sup>2</sup>Jacqueline Mowbray, 'Gender Audits and Legislative Scrutiny: Do Parliamentary Human Rights Bodies Have a Role to Play?' in Ramona Vijayarasa (ed), *International Women's Rights Law and Gender Equality: Making the Law Work for Women* (Routledge, 2021) 201, 203–4.

<sup>3</sup>Ibid 204.

<sup>4</sup>*Human Rights Act 2004* (ACT).

<sup>5</sup>*Charter of Human Rights and Responsibilities Act 2006* (Vic).

<sup>6</sup>*Human Rights Act 2019* (Qld).

<sup>7</sup>Kent Blore, 'The Riddle of s 5(2)(a) of the *Human Rights Act 2019* (Qld): When Are Courts and Tribunals Required to Apply Human Rights Directly?' (2021) 102 *Australian Institute of Administrative Law Forum* 71.

<sup>8</sup>Parliamentary Joint Committee on Human Rights, Parliament of Australia, *Inquiry into Australia's Human Rights Framework* (Report due, 30 May 2024) [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Human\\_Rights/HumanRightsFramework](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework).

<sup>9</sup>*Gender Equality Act 2020* (Vic).

<sup>10</sup>Margaret Thornton, 'Feminist Jurisprudence: Illusion or Reality?' (1986) 3 *Australian Journal of Law and Society* 5; Susan Boyd and Elizabeth Sheehy, 'Canadian Feminist Perspectives on Law' (1986) 13 *Journal of Law and Society* 283; Carol Smart, *Feminism and the Power of Law* (Routledge, 1989).

<sup>11</sup>Reg Graycar and Jenny Morgan, 'Law Reform: What's in It for Women' (2005) 23(2) *Windsor Yearbook of Access to Justice* 393.

<sup>12</sup>Carol Smart, *Feminism and the Power of Law* (Routledge, 1989) 2.

<sup>13</sup>Becky Batagol and Ramona Vijayarasa, 'Lighting the Spark: Reimagining the Statutory Landscape through the Feminist Legislation Project' in Ramona Vijayarasa (ed), *International Women's Rights Law and Gender Equality: Making the Law Work for Women* (Routledge, 2021).

<sup>14</sup>Ann Genovese, 'Goode and Goode: The Practice of Feminist Judgment in Family Law' in Heather Douglas et al (eds), *Australian Feminist Judgments: Righting and Rewriting Law* (Hart Publishing, 2014).

<sup>15</sup>Batagol and Vijayarasa (n 13).

<sup>16</sup>Hilary Charlesworth, 'The Hidden Gender of International Law' (2002) 16(1) *Temple International and Comparative Law Journal* 93, 98.

<sup>17</sup>See, eg, Marian Baird, Betty Frino and Sue Williamson, 'Paid Maternity and Paternity Leave and the Emergence of "Equality Bargaining" in Australia: An Analysis of Enterprise Agreements, 2003–2007' (2009) 35(4) *Australian Bulletin of Labour* 608–610.

parents in same-sex unions enjoy access to paid leave benefits.<sup>18</sup>

Gender audit committees may be such a platform to bring these gendered perspectives to law-making and pragmatically use law to pursue a more just, equitable and liveable future for women. While some scholars have suggested that there are approximately 30 such gender equality audit committees in parliaments worldwide,<sup>19</sup> a more recent mapping suggests that there have been 57 gender audit committees in existence in 48 countries.

The end goal of the work of such gender audit committees is gender-responsive legislation – that is, greater accountability in legislative and policy implementation to the specific needs and perspectives of people of different genders, to become what is termed ‘gender-responsive law-making’.<sup>20</sup> Such a perspective can ensure that legal drafting is more responsive to gendered experiences that may be relevant to different social, economic and political issues.<sup>21</sup> Yet the ability to achieve such gender-responsiveness in law requires multiple factors – political will, capacity among both legislators and parliamentary counsel, who turn policy motions into legalese, as well as the auditors, whose job it would be, should they exist, to conduct the checks and balances to ensure that gender-responsiveness has been achieved.

To date, despite the potential for gender audit committees to bring a required gender lens to the law, these bodies have been largely overlooked by legal scholars. They have, instead, been the subject of more intense scrutiny in the political sciences.<sup>22</sup> More attention has been placed on the important question of how we institutionalise gender in parliaments while less emphasis has been given to the legislative impact of audit work.<sup>23</sup> Yet, scrutiny is often required precisely *because* the law itself, as drafted, may produce or reproduce the problem of gendered discrimination when the language of law limits, or can even work against, the apparent intention of legislation.<sup>24</sup>

Nonetheless, such an assessment of the existing scholarship may foster a false dichotomy between the goal of institutionalising gender, on the one hand, and the aim of assessing the impact on the law of committee work, on the other. Parliamentary committees can only be impactful in

reshaping law and finding a place for women in legislation, if we institutionalise gender-responsive norms and values. We seek both institutionalisation and impact. In this regard, Anne Maria Holli and Mette Marie Stæhr Harder have suggested measuring: the character of parliamentary committees (eg, the drivers behind their establishment); their processes (eg, engagement with civil society); and their outputs (eg, whether the committee has shifted the actual content of enacted laws, by mainstreaming gender and bringing feminist values in their gender oversight of bills).<sup>25</sup>

Both the scholarly and applied research, such as the Gender Legislative Index,<sup>26</sup> demonstrate that ‘improving legislation requires some mechanism to examine legislation *before* it is passed’.<sup>27</sup> Mechanisms may also be needed to determine whether women-centred legislation is in conformity with our constitutional principles. Writing on the scrutiny of counter-terrorism laws, Dominique Dalla-Pozza has not only reflected upon the varying levels of influence exercised by different scrutiny bodies, but has suggested a non-judicial declaration that a law is incompatible with human rights is constitutionally valid.<sup>28</sup> In relation to New South Wales, South Australia, Western Australia and Tasmania, scholars have been concerned that rights standards are ‘not likely to be consistently communicated to bureaucrats by parliamentary counsel when Bills are being proposed and drafted’.<sup>29</sup> A further question emerges regarding what obligation is placed on a legislator, who initiates the motion for a Bill in the first place, to amend that Bill, to achieve compatibility after committee reporting. This essential consideration likely requires a further technical check, as part of the process of parliamentary scrutiny.

## Responding to the demand: Tasmania’s innovation

In June 2022, Independent Member of Parliament Ruth Forrest, made a motion before the Tasmanian Legislative Council for a Joint Sessional Gender and Equality Committee. Referencing the Gender Legislative Index and an earlier presentation I delivered at the 2021 Communities in

<sup>18</sup>Ramona Vijayarasa, ‘Misdirected by the “Daddy Quota”: A Comparative Study of Paid Parental Leave across Twenty-One Asian Nations’ [2024] *Asian Journal of Comparative Law* (forthcoming); Deborah A Widiss, ‘The Hidden Gender of Gender-Neutral Paid Parental Leave: Examining Recently-Enacted Laws in the United States and Australia’ (2021) 41 *Comparative Labor Law & Policy Journal*.

<sup>19</sup>Sarah Childs, ‘Feminist Institutional Change: The Case of the UK Women and Equalities Committee’ (2023) 76(3) *Parliamentary Affairs* 507.

<sup>20</sup>Vijayarasa (n 1) 277.

<sup>21</sup>*Ibid.*

<sup>22</sup>Marian Sawyer, ‘Parliamentary Representation of Women: From Discourses of Justice to Strategies of Accountability’ (2000) 21(4) *International Political Science Review* 361; Childs (n 19); Anne Maria Holli and Mette Marie Stæhr Harder, ‘Towards a Dual Approach: Comparing the Effects of Parliamentary Committees on Gender Equality in Denmark and Finland’ (2016) 69(4) *Parliamentary Affairs* 794.

<sup>23</sup>Holli and Harder (n 22).

<sup>24</sup>For substantive examples where this may be the case, see Ramona Vijayarasa, *Gender Legislative Index* (Web Page, 2019) <https://www.genderlawindex.org/>.

<sup>25</sup>Holli and Harder (n 22) 798.

<sup>26</sup>Vijayarasa (n 24). I developed the Gender Legislative Index as a tool that uses human evaluators to evaluate the gender-responsiveness of domestic law against global benchmarks and machine learning to bring a comparative, overarching ‘score’, to determine the extent to which laws meet global women’s rights norms.

<sup>27</sup>Mowbray (n 2) 201 (emphasis added).

<sup>28</sup>Dominique Dalla-Pozza, ‘A Dual Scrutiny Mechanism for Australia’s Counter-Terrorism Law Landscape: The INSLM and the PJGIS’ in Laura Grenfell and Julie Debeljak (eds), *Law Making and Human Rights: Executive and Parliamentary Scrutiny across Australian Jurisdictions* (Thomson Lawbook, 2020).

<sup>29</sup>Laura Grenfell and Julie Debeljak, ‘Future Directions for Engaging with Human Rights in Law-Making: Is a Culture of Justification Emerging across Australian Jurisdictions?’ in Debeljak and Grenfell, *Law Making and Human Rights: Executive and Parliamentary Scrutiny across Australian Jurisdictions* (Thomson Lawbook, 2020) 789, 799.

Control Conference,<sup>30</sup> Forrest sought to persuade the Tasmanian Legislative Council that 'Australian laws should not be gender-neutral where there are important differences between men and women that need to be taken into account'.<sup>31</sup> The motion called for the following:

That a Joint Sessional Gender and Equality Committee be appointed with power to send for persons and papers, with leave to sit during any adjournment of either House and with leave to adjourn from place to place to inquire into and report upon –

- 1) (a) Any bill referred to it by either House in order to examine gender and equality impacts;
- (b) Any matter related to gender and equality referred to it by either House; and
- (c) Any matter related to gender and equality, initiated by its own motion; and
- 2) That notice of any own motion inquiry shall be reported to both Houses within two (2) sitting days of the Committee's Resolution; and
- 3) That the number of Members to serve on the said Committee on the part of the Legislative Council be four.<sup>32</sup>

Perhaps everything is in the timing. As Merrindahl Andrew points out, feminist institution-building and feminist activism tend to come together.<sup>33</sup> Tasmania's motion for a parliamentary audit committee saw its success in relative alignment with Australia's #MeToo moment and the rape allegations made by Brittany Higgins that brought stark visibility to the need to change the 'gendered entitlement' that underpins the Australian Federal Parliament as a workplace.<sup>34</sup>

Forrest has suggested that the Tasmanian Committee has the capacity to be a real game-changer for law-making in Australia and play an essential role in 'informing parliamentary decision-making and debate, as well as government policy'.<sup>35</sup> The Committee can also 'ensure inequality is exposed and mitigated as much and as quickly as possible'.<sup>36</sup> This novel mechanism invites further research, to better understand the extent to which this innovation can help tackle gendered inequalities.

Nonetheless, the very existence of a scrutiny body focused on gender is not without controversy in Australia. To the surprise of many, and as a point of contention, the Tasmanian Committee chose as its first point of business to use its capacity to inquire into any matter related to gender and equality to study the relatively high rates of male suicide in Tasmania.<sup>37</sup> This decision may invite us to query the capacity of auditing to genuinely improve the lives of women. Where the scope of the subject matter to be audited is broadened to garner political support, the outcome may be to the benefit of all, but risks re-centring men and not women.

## Unanswered questions for effective gender-responsiveness

Before feminist legal scholars keenly pursue the creation of parliamentary gender audit committees, an obvious question to ask is whether they are likely to be effective in bringing this gender lens to the law. Indeed, the existence of ineffective committees risks the perception of a democratic process when in reality legislative scrutiny is lacking. This requires us to consider what is effectiveness<sup>38</sup> and how can such effectiveness be achieved? I explore these and other questions through the lens of Tasmania.

Tasmania's auditing experience illustrates that achieving effectiveness is not straightforward. I draw upon my involvement in two public hearings before the Tasmanian Committee in 2022 and 2023<sup>39</sup> and the support I provided to the Committee in the auditing of their first Bill, the Local Government Amendment (Code of Conduct) Bill 2022 ('Code of Conduct Amendment Bill').<sup>40</sup> It is often presumed that audit committees are initiated by women – a correct assumption in the case of Tasmania – and become 'busywork' that keeps people and, in this case, often women, busy, but with limited effect. The Tasmanian Committee is composed of both male and female members, one of whom identifies as Indigenous. Acknowledging such diversity – but also gaps, such as cultural and linguistic diversity more generally – speaks to the capacity of the committee to reflect the views and experiences of a diverse Tasmanian population.

<sup>30</sup>Ramona Vijayarasa, 'Gender equality in a generation' (Conference Paper, Communities in Control Conference, 17 May 2021) 13 [https://communitiesincontrol.com.au/uploads/media/gender-equality-in-a-generation/transcripts/Ramona\\_Vijayarasa\\_CIC\\_May\\_2021.pdf](https://communitiesincontrol.com.au/uploads/media/gender-equality-in-a-generation/transcripts/Ramona_Vijayarasa_CIC_May_2021.pdf).

<sup>31</sup>Tasmania, *Parliamentary Debates*, Legislative Council, 2 June 2022, 37 (Ruth Forrest) [https://www.parliament.tas.gov.au/\\_\\_data/assets/pdf\\_file/0021/55740/lc20thursday20220june2022.pdf](https://www.parliament.tas.gov.au/__data/assets/pdf_file/0021/55740/lc20thursday20220june2022.pdf) quoting Vijayarasa (n 30).

<sup>32</sup>Ibid 32.

<sup>33</sup>Merrindahl Andrew, 'The Institutional Harvest: Women's Services and Women's Policy Agencies' in Sarah Maddison and Marian Sawyer (eds), *The Women's Movement in Protest, Institutions and the Internet: Australia in Transnational Perspective* (Routledge, 2013) 89.

<sup>34</sup>Chris Wallace, 'Changing the Conditions Underpinning Gendered Entitlement in Parliament as a Workplace' (2021) 36(2) *Australasian Parliamentary Review* 20.

<sup>35</sup>Parliamentary Debates (n 31) 32.

<sup>36</sup>Ibid 35.

<sup>37</sup>Joint Sessional Committee on Gender and Equality, Parliament of Tasmania, *Short Inquiry Process Report on Gendered High Rates of Suicide Ideation and Suicide in Tasmania* (Final Report, 21 March 2023) [https://www.parliament.tas.gov.au/\\_\\_data/assets/pdf\\_file/0023/68351/Final-for-tabling-SIP-suicide-report\\_Redacted.pdf](https://www.parliament.tas.gov.au/__data/assets/pdf_file/0023/68351/Final-for-tabling-SIP-suicide-report_Redacted.pdf).

<sup>38</sup>Holli and Harder (n 22) 795.

<sup>39</sup>Parliament of Tasmania, 'Gender and Equality Committee' (13 June 2023) <https://www.parliament.tas.gov.au/committees/joint-committees/sessional-committees/gender-and-equality-committee>.

<sup>40</sup>Department of Premier and Cabinet Tasmania, 'Local Government Code of Conduct Framework Review' (Web Page) [https://www.dpac.tas.gov.au/divisions/local\\_government/local\\_government\\_code\\_of\\_conduct/code\\_of\\_conduct\\_framework\\_review](https://www.dpac.tas.gov.au/divisions/local_government/local_government_code_of_conduct/code_of_conduct_framework_review).

The Code of Conduct Amendment Bill sought to provide a standard code, to govern the behaviour of local government officials (councillors) and offers an excellent platform to understand the complexity of bringing a gender perspective to an entirely gender-blind Bill. Auditing revealed the degree to which the amendment had failed to: address serious councillor misconduct, including sexual and other harassment, gender-based violence, bullying or other behaviour that our laws prohibit; require gender-sensitive investigation of complaints against a councillor; or provide adequate redress in instances of sexual harassment or bullying.<sup>41</sup> The question that remains, however, is the extent to which the Tasmanian government – as sponsor of the Code of Conduct Amendment Bill – will embrace the recommendations emerging from the audit.

A further question is how committees define 'gender'. Alongside male suicide, the Tasmanian Committee intends to examine homelessness among older women in Tasmania and has examined gendered biases in access to sexual and reproductive healthcare, including among the LGBTQI+ population, reflecting a more encompassing approach to interrogating the impact of law on people of diverse genders.<sup>42</sup> In this respect, while we can bring a pre-defined meaning of 'gender' and 'women' to our examination of gender audit committees, it is imperative to acknowledge the distinct ways that individual parliamentary committees use and apply terminology. For instance, while the Tasmanian Committee uses 'gender and equality', the ACT uses 'gender and economic equality'. Canada has a House of Commons Standing Committee on the 'Status of Women', formed in 2004.<sup>43</sup> Spain has a non-permanent Congress<sup>44</sup> and Senate<sup>45</sup> 'Equality' Commission.<sup>46</sup> The scope of audit work will necessarily be constrained, or enabled, by committee mandates.

Third, we may want to ask if there is a role for civil society engagement. Sean Mulcahy and Kate Seear's analysis of civil society participation in parliamentary committees on drug law reform in the ACT and Victoria reveals how those most affected are the least heard.<sup>47</sup> Yet representation is central to understanding gender audit committees. To represent, or *repraesentare*, according to the late political

theorist Hanna Pitkin, means 'to make present something that is not in fact present'.<sup>48</sup>

Such an approach to representation requires achieving four main interrelated and integrated forms of representation: 1) formalistic representation, being the authorisation to act on behalf of another person; 2) descriptive representation, where a relationship can be determined between the characteristics of the representative and those who are represented; 3) symbolic representation, which refers to the degree to which the representative invokes a sense of being represented in someone; and 4) substantive representation, that is, when someone acts for the concrete interest of the represented.<sup>49</sup>

Gender equality audit committees should, in my view, be expected to deliver across all four frames. For disadvantaged groups, such as women or culturally and linguistically diverse groups, representation in legislative debates has been found to improve their 'presence' or standpoint, in law and policy.<sup>50</sup> Such an approach to 'gendered citizenship' encourages us to go beyond women's formal legal status and capacity for political activity<sup>51</sup> to achieve a more inclusive mode of practising citizenship.

Gender audit committees can present an opportunity for enhancing gendered citizenship, if members of disadvantaged groups are enabled to directly share lived experiences of the law. Ultimately, one can conceive committees that invite affected individuals to the auditing table. This may be in the form of traditional submissions, although a voice in hearings would be a much more powerful tool for change. Like others, however, my optimism is tempered. Committee work is done behind closed doors.<sup>52</sup> Expert views, if ever invited, are on an ad hoc and not systematic basis.

Nonetheless, two key considerations can be accounted for in the short term. First, institutionalised bodies working on gender need to be composed of more than just women. Feminist men may bring unique perspectives concerning the laws which advantage men and those laws that may create disadvantages for men.<sup>53</sup> Such a design may also shift the work of gender equality off women's shoulders. Second, audit bodies must be supported to bring a gender lens to a much wider range of laws than may otherwise be brought

<sup>41</sup>Joint Sessional Gender and Equality Committee, Parliament of Tasmania, *Local Government Amendment (Code of Conduct) Bill 2022* (Trial Bill Assessment No 9, 2023) 17 [https://www.parliament.tas.gov.au/\\_data/assets/pdf\\_file/0020/71237/Final-Report-Trial-Bill-Assessment\\_for-Tabling.pdf](https://www.parliament.tas.gov.au/_data/assets/pdf_file/0020/71237/Final-Report-Trial-Bill-Assessment_for-Tabling.pdf).

<sup>42</sup>Parliament of Tasmania, 'Gender and Equality Committee' (Web Page) <https://www.parliament.tas.gov.au/committees/joint-committees/sessional-committees/gender-and-equality-committee>.

<sup>43</sup>Parliament of Canada, 'Standing Committee on the Status of Women' <https://www.ourcommons.ca/Committees/en/FEWO>.

<sup>44</sup>Congreso de Los Diputados, 'Comisión de Igualdad' (Web Page) [https://www.congreso.es/es/comisiones?p\\_p\\_id=organos&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&\\_organos\\_selectedLegislatura=XV&\\_organos\\_codComision=320](https://www.congreso.es/es/comisiones?p_p_id=organos&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&_organos_selectedLegislatura=XV&_organos_codComision=320).

<sup>45</sup>Senado de España, 'Comisión de Igualdad' (Web Page) <https://www.senado.es/web/actividadparlamentaria/sesionescomision/detallecomisiones/composicion/index.html?jsessionid=BG4SmfPGpvImQIWx64TvmZ9SwpsYBTYmRjrZVvsJFyM98dXn9q5gl-1075994620?id=S01I015&legis=15&esMixta=N>.

<sup>46</sup>A joint Commission was formed in 1998 and then split into two commissioners, one per chamber, in 2008. See European Institute for Gender Equality (EIGE), 'Spain: Parliamentary bodies' (Web Page) [https://eige.europa.eu/gender-mainstreaming/countries/spain?language\\_content\\_entity=en](https://eige.europa.eu/gender-mainstreaming/countries/spain?language_content_entity=en).

<sup>47</sup>Sean Mulcahy and Kate Seear, 'On Tables, Doors and Listening Spaces: Parliamentary Human Rights Scrutiny Processes and Engagement of Others' (2022) 28(2–3) *Australian Journal of Human Rights* 286.

<sup>48</sup>Hanna F Pitkin, *The Concept of Representation* (University of California Press, 1967) 92. This seminal work, with over 12,000 citations on Google Scholar, lacks a gender lens.

<sup>49</sup>Ibid.

<sup>50</sup>Karen Celis and Sarah Childs, 'Introduction: The Descriptive and Substantive Representation of Women: New Directions' (2008) 61(3) *Parliamentary Affairs* 419; Jane Mansbridge, 'Should Blacks Represent Blacks and Women Represent Women? A Contingent "Yes"' (1999) 61(3) *The Journal of Politics* 628.

<sup>51</sup>Kim Rubenstein and Katharine G Young (eds), *The Public Law of Gender: From the Local to the Global* (Cambridge University Press, 2016).

<sup>52</sup>Mulcahy and Seear (n 47) 288.

<sup>53</sup>Thanks are owed to Sonia Palmieri for an engaging conversation about her work with the Fijian Parliament that included a discussion on this pivotal point.



within a traditional frame of gendered issues. Tasmania's review of the Code of Conduct Amendment Bill is a good example of how issues that may be at the forefront for some – sexual harassment – may be entirely ignored in laws considered gender-neutral in their focus.

## Conclusion

Parliamentary gender audit committees – at least in Australia – are nascent. This article has posed numerous questions we may want to ask as the work of the Tasmanian Gender and Equality Audit Committee rolls out. In particular, the Committee's potential to have an influence over legislation in ways that facilitate women's active citizenship remains to be seen. Moreover, we should also wait to see whether the development is replicated in other jurisdictions. Finally, we are far from a place where we have achieved a sought-after vital connection between parliamentary bodies and citizens' voices.<sup>54</sup> There remains, therefore, much scope to further interrogate the capacity of audit committees, in Australia and abroad, to centre women's lived experiences of law.

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<sup>54</sup>Mulcahy and Seear (n 47) 346.