
‘Melodrama, Fisticuffs and Generally Aberrant Behaviour’: Gender, Norms of Behaviour and Workplace Culture in the New Zealand Parliament*

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Abstract In 2018, following a series of public reports alleging bullying by politicians, a review of the workplace culture of the New Zealand Parliament was commissioned. The Francis Review, released in May 2019, uncovered serious issues including systemic bullying and harassment. In the wake of the review and its 85 recommendations, a voluntary code of conduct for Members of Parliament, staff and visitors was introduced in July 2020; negotiations around an Independent Commission for Parliamentary Conduct are still ongoing. These recent developments must be situated in the context of a broader, long-running debate on standards of parliamentary behaviour and, particularly since the advent of mixed-member proportional (MMP) electoral system in the 1990s, what an inclusive and representative House should look and act like. This article maps how gendered norms of parliamentary behaviour have been established and challenged in the New Zealand Parliament.

INTRODUCTION

Parliaments are sites that have been designed for a homogenous group of people—notably men who are not primary caregivers. As diversity has become a goal in representation—and, increasingly, a reality—the image of the typical parliamentarian is changing. Hypermasculinity, however, remains the norm, and conforming to this

norm is rewarded, creating risks for 'space invaders'.¹ Renewed global attention to the issue of violence against women in politics has highlighted these enduring risks.²

Practitioners and academics have sought to reframe the idea of parliaments, understanding them as (gendered) workplaces.³ A key goal of this work is changing parliamentary workplace cultures to make them safer spaces for women and groups who sit outside the traditional norm. For these groups, parliaments are often experienced as hostile workplaces, and this contributes to issues in attracting and maintaining a diverse workforce. Yet these cultures have proven resistant to change.

In 2018, the New Zealand Parliament was at the centre of a series of scandals relating to alleged bullying by politicians. Following these reports, an external independent review into bullying and harassment of parliamentary staff was commissioned. Released in May 2019, the Francis Review found evidence of systemic issues with bullying and harassment within Parliament, with the author noting that 'Parliament as a workplace does exhibit some of the commonly cited elements of workplace toxicity'.⁴ The Review found unconscious bias and sexist behaviour were common issues, with incidents, including serious incidents, of sexual harassment and sexual violence also reported.⁵

While the Review focused on parliamentary staff, bullying and harassment of Members of Parliament (MPs), especially women, was another ongoing issue. A survey carried out in 2018 by the Commonwealth Women Parliamentarians (CWP) Group showed that sexism, harassment and violence, particularly psychological violence, against New Zealand women MPs was widespread.⁶ Following the results, the CWP co-chairs

¹ Nirmal Puwar, *Space Invaders: Race, Gender and Bodies Out of Place*. Oxford and New York: Berg, 2004; Mona Lena Krook, 'Westminster Too: On Sexual Harassment in British Politics'. *Political Quarterly* 89(1) 2018, pp. 65-72.

² See for example Mona Lena Krook, 'Violence against Women in Politics'. *Journal of Democracy* 28(1) 2017, pp. 74-88.

³ See Sonia Palmieri, *Gender-Sensitive Parliaments: A Global Review of Good Practice*. Geneva: Inter-Parliamentary Union, 2011; Josefina Erikson and Celia Josefsson, 'The Parliament as a Gendered Workplace: How to Research Legislators' (UN)Equal Opportunities to Represent'. *Parliamentary Affairs* 2020, doi:10.1093/pa/gsaa049.

⁴ Debbie Francis, *Bullying and Harassment in the New Zealand Parliamentary Workplace*, External Independent Review, May 2019, p. 35.

⁵ Francis, *Bullying and Harassment*.

⁶ Louisa Wall and Jo Hayes, 'Sexism, Harassment and Violence against Women Parliamentarians in New Zealand'. *The Parliamentarian* 2 2019, 158-160.

argued: ‘Such behaviour must no longer be viewed as “just the price to be paid” for political involvement. It is the duty of political actors, men and women, and of Parliaments as institutions to set the right examples’.⁷

Of the systemic issues with bullying and harassment in the New Zealand Parliament uncovered in the Francis Review, the author noted: ‘A core perceived problem is low accountability, particularly for Members, who face few sanctions for harmful behaviour’.⁸ The Review’s 85 recommendations included the creation of a parliamentary code of conduct, as well as an independent commission for parliamentary conduct. A voluntary code for MPs, staff and visitors was introduced in July 2020. Negotiations around an Independent Commission for Parliamentary Conduct, however, were less successful.

This article seeks to put these recent developments in New Zealand in the context of a broader, long-running debate on standards of parliamentary behaviour and what a representative House should look and act like. New Zealand has often been at the forefront of diversity and equality in political participation and representation.⁹ The mixed-member proportional (MMP) electoral system, introduced in the 1990s, was believed to be a means to creating a more diverse, and more collegial, Parliament. Yet even as diversity has greatly increased, hyper-masculinised norms of parliamentary behaviour have proven sticky. This was acknowledged by Prime Minister Jacinda Ardern on the 125th anniversary of women’s suffrage:

Our young women may no longer question whether society will accept them in Parliament, but they may very well question whether Parliament is something they will accept, if it's where they want to be. This is not an attractive place of work, and I would argue that for both men and women. Measures of success aren't based on how many constituents you've helped but on how many scalps you've claimed ... It's a Westminster system, Mr Speaker, as you well know, and it's robust, but how many find it an

⁷ Wall and Hayes, ‘Sexism, Harassment and Violence’, p. 160.

⁸ Francis, *Bullying and Harassment*, p. 7.

⁹ Jennifer Curtin, ‘New Zealand: A Country of Firsts in Women’s Political Rights’, in Susan Franceschet, Mona Lena Krook and Netina Tan (eds), *The Palgrave Handbook of Women’s Political Rights*. London: Palgrave Macmillan, 2019, pp. 129-142.

appealing career choice? But we need it to be, and not just for women but for people from all walks of life.¹⁰

Using the idea of Parliament as a gendered workplace, this article seeks to explore the evolution of parliamentary norms of behaviour over time. Two key mechanisms to change behavioural norms—electoral reform and the introduction of a code of conduct—are examined. While electoral reform has greatly increased diversity in the New Zealand Parliament, it has been less than transformative in changing parliamentary norms. A code of conduct is a significant, and long-awaited, step for the New Zealand Parliament in acknowledging its responsibilities as a workplace, yet the particular code introduced in 2020—voluntary, with no independent enforcement mechanisms—will have a limited impact on norms of behaviour.

PARLIAMENT AS A WORKPLACE

Gender scholars and practitioners have developed important frameworks to understand Parliament as a (gendered) workplace. A 2011 report from the Inter-Parliamentary Union (IPU) developed an agenda on gender sensitive parliaments (GSP) and initiated a shift in global parliamentary norms.¹¹ As Sarah Childs and Sonia Palmieri define it: ‘A GSP values and prioritises gender equality as a social, economic and political objective and reorients and transforms a parliament’s institutional culture, processes and practices, and outputs towards these objectives’.¹² Changing workplace culture is a core part of creating a gender sensitive Parliament. In her work on the UK House of Commons, Childs expands on this approach to set out a framework for diversity-sensitive parliaments, noting: ‘For a Parliament to be truly inclusive, attention to diverse exclusions and to intersectionality and within-group differences is necessary’.¹³

¹⁰ Jacinda Ardern, New Zealand Parliament, *Parliamentary Debates*, House of Representatives, 19 September 2018, p. 6771.

¹¹ Palmieri, *Gender-Sensitive Parliaments*.

¹² Sarah Childs and Sonia Palmieri, ‘Gender Sensitive Parliaments: Feminizing Formal Political Institutions’, in Marian Sawyer, Lee Ann Banaszak, Jacqui True and Johanna Kantola (eds), *Handbook of Feminist Governance*. Cheltenham: Edward Elgar, forthcoming.

¹³ Sarah Childs, *Diversity Sensitive Parliaments: Parliamentary Practice in Comparison, A Briefing*, University of Bristol, March 2017.

More recently, scholars have put forward a ‘gendered workplace approach’ to studying parliaments.¹⁴ This approach draws on the depth of feminist scholarship on workplaces as gendered spaces, but acknowledges the distinctiveness of parliaments as a type of workplace. Some features of this distinctiveness—such as MPs being primarily accountable to their electorates, rather than to a manager within the workplace, and being responsible for hiring, supervising, and firing their own staff, often without any management training or experience—exacerbate risks including bullying and harassment.¹⁵ Yet the uniqueness of Parliament as a workplace is also frequently used as an excuse to resist changes to bring it more into line with workplace norms.¹⁶

Electoral reform is a key mechanism for increasing diversity in representation. The impact of electoral systems on the representation of women and marginalised groups is well-known,¹⁷ with proportional systems seen as more conducive to women’s representation than majoritarian systems. Yet the presence of women and marginalised groups in legislatures does not guarantee their ability to effect political change; broader cultural change is required to create a more inclusive and representative politics. This is what Jennifer Curtin termed the ‘diversity dilemma’, where an increasingly heterogeneous Parliament remains shaped by gendered and racialised rules and norms.¹⁸

A code of conduct is a set of rules to guide behaviour and shape norms within an institution or workplace. All conduct within a group or organisation is defined by established practices, and shaped by (often unspoken and informal) rules and norms. Codes of conduct can function as a formal articulation of rules of behaviour. A code of conduct, however, cannot be just a code: how it is developed; to what extent it is seen as legitimate and binding; who is responsible for enforcing it; the consequences of non-

¹⁴ See Erikson and Josefsson, ‘The Parliament as a Gendered Workplace’.

¹⁵ Inter-Parliamentary Union, *Sexism, Harassment and Violence against Women Parliamentarians*. Geneva: Inter-Parliamentary Union, 2016; see also Krook, ‘Westminster Too’.

¹⁶ Francis, *Bullying and Harassment*.

¹⁷ See Wilma Rule and Joseph F. Zimmerman (eds), *Electoral Systems in Comparative Perspective: Their Impact on Women and Minorities*. Westport: Greenwood, 1994.

¹⁸ Elle Hunt, ‘Diversity Dilemma’: World’s Most Inclusive Parliament Still Faces Battle for Change’. *The Guardian*, 8 February 2021. Accessed at: <https://www.theguardian.com/world/2021/feb/08/diversity-dilemma-worlds-most-inclusive-parliament-still-faces-battle-for-change-new-zealand>

compliance; and the mechanisms for resolving disputes it contains, if any, are all important aspects of how it functions.¹⁹

The lack of independent accountability mechanisms is an important factor in enabling hostile workplace cultures.²⁰ Across the world, parliamentary ‘provisions that explicitly protect members against sexist remarks, sexual harassment and threats of violence from other members’ are rare.²¹ In neighbouring Australia, there have been calls for a code of conduct for Members of the federal Parliament since at least 1975.²² An all-party informal working group of parliamentarians drafted a proposed code of conduct in 1994, considered ‘an aspirational set of principles or values’ rather than an enforceable commitment.²³ The issue of a code of conduct was revived in 2008 after a number of scandals related to the behaviour of parliamentarians, and was part of the coalition agreement following the 2010 election.²⁴ More recently, allegations of misconduct in the Australian parliamentary workplace have led to renewed calls for a code of conduct.²⁵ Importantly, throughout these Australian debates, as in New Zealand, there has been entrenched resistance to enforceable and strict codes of conduct for parliamentarians.

¹⁹ Sonia Palmieri, ‘Feminist Institutionalism and Gender-Sensitive Parliaments: Relating Theory and Practice’, in Marian Sawer and Kerryn Baker (eds), *Gender Innovation in Political Science: New Norms, New Knowledge*. Cham: Palgrave, 2019, 173-194.

²⁰ See Wall and Hayes, ‘Sexism, Harassment and Violence’; Francis, *Bullying and Harassment*; IPU, *Sexism, Harassment and Violence*; Krook, ‘Westminster Too’.

²¹ IPU, *Sexism, Harassment and Violence*, p. 9.

²² Deirdre McKeown, *Codes of Conduct in Australian and Selected Overseas Parliaments*. Canberra: Commonwealth of Australia, 2012.

²³ Quoted in McKeown, *Codes of Conduct*, p. 6.

²⁴ McKeown, *Codes of Conduct*.

²⁵ Global Institute for Women’s Leadership, ‘Parliament as a Gendered Workplace: Towards a New Code of Conduct’. *Submission to the Independent Inquiry into Commonwealth Parliamentary Workplaces*. Canberra: The Australian National University, 2021.

ENCOURAGING INCLUSIVE PARLIAMENTARY CULTURE THROUGH ELECTORAL REFORM

Prior to the adoption of MMP,²⁶ New Zealand used a first-past-the-post (FPP) electoral system.²⁷ Inherited from the British colonial administration, FPP was the subject of protest, centred around disproportionality, in the late 1970s and early 1980s as minor parties grew in popularity. In both the 1978 and 1981 elections, the Labour Party won more overall votes, yet the National Party retained government. Labour began campaigning on electoral system reform in 1981, and after winning the 1984 election, set up a Royal Commission on the Electoral System. The Commission's report, released in 1986, recommended the adoption of MMP, a recommendation perceived as a 'radical conclusion' from a 'runaway commission'.²⁸ Though Labour and National were both unwilling to embark on substantial change to the voting system, effective lobbying from the Electoral Reform Coalition (ERC) forced both parties to commit to a referendum as a 1990 election promise.

The electoral system was changed in a two-step referendum. The initial non-binding referendum, on 19 September 1992, first asked if voters would like to retain FPP or change the system; 85 per cent elected to change the system. Secondly, it gave four alternative options.²⁹ Voters overwhelmingly chose MMP, which the Royal Commission had endorsed and the ERC had actively campaigned for. The subsequent referendum, held at the same time as the 1993 general election, was binding and gave voters the choice between FPP and MMP. The latter narrowly prevailed with 54 per cent of the vote.³⁰

²⁶ For more information about New Zealand's MMP system, see Jonathan Boston, Stephen Levine, Elizabeth McLeay and Nigel S. Roberts, *New Zealand Under MMP: A New Politics?* Auckland: Auckland University Press, 1996, pp. 23-4.

²⁷ There was a brief experiment with a two-round system from 1908 to 1912.

²⁸ Jack H. Nagel, 'What Political Scientists Can Learn from the 1993 Electoral Reform in New Zealand'. *PS: Political Science and Politics* 27(3) 1994, 525-529, p. 526; see also Royal Commission on the Electoral System, *Report of the Royal Commission on the Electoral System: Towards a Better Democracy*. Wellington: New Zealand Government, 1986; Jonathan Boston, 'Electoral Reform in New Zealand: The Report of the Royal Commission'. *Electoral Studies* 6(1) 1987, 105-114; Arend Lijphart, 'The Demise of the Last Westminster System? Comments on the Report of New Zealand's Royal Commission on the Electoral System'. *Electoral Studies* 6(2) 1987, 97-103.

²⁹ The options were MMP; single transferable vote (STV); supplementary member (SM); and preferential voting (PV).

³⁰ A third voting system referendum was held in conjunction with the 2011 general election, in which 56 per cent of voters elected to keep MMP.

Diversity in representation was a key concern in the electoral reform debates. Central to the commission's deliberations was the question of effective representation of Māori, minority and special interest groups. MMP was seen as enabling greater diversity in Parliament.³¹ Another focus was the creation of a more collegial and collaborative political culture. This was strongly related to the push for broader representation, as this style of politics was seen as more suitable to and reflective of an increasingly diverse political community. This was a popular goal: 'New Zealanders quite consciously wanted to move toward consensus government ... "Consensus" was the byword that summarized their aspirations for a more cooperative style of politics'.³² A shift away from the 'traditional' style of politics, and associated rules and norms, was a key part of this: 'in the Commission's view, a "better" democracy clearly means less Westminster-style democracy'.³³

The introduction of MMP had a significant effect on Parliament in the reduction of disproportionality and the entry of minor parties to Parliament—often in 'kingmaker' positions. Although the two traditional major parties, Labour and National, still dominate, until the 2020 election no party had won a majority of seats in the MMP era. This move towards coalition governments has been a notable shift.

MPP has prompted changes to the formal rules of Parliament. Former Speaker Margaret Wilson noted, 'the introduction of MMP in 1996 required a rethinking of the Standing Orders to govern this new form of Parliamentary representation'.³⁴ With minor parties a greater presence in the House, proportionality rules for question time, as well as select committees, were instituted. A 'no surprises' approach to parliamentary business was established, with a Business Committee on which minor and Opposition parties have representation, and which makes decisions based on consensus or near-unanimity.³⁵

³¹ Boston, 'Electoral Reform in New Zealand', p. 110.

³² Nagel, 'What Political Scientists Can Learn', p. 527.

³³ Lijphart, 'The Demise of the Last Westminster System?', p. 98.

³⁴ Margaret Wilson, 'Keeping Order and Fostering Decorum – a New Zealand Perspective'. Speech to Conference of Commonwealth Speakers and Presiding Officers, London, 3 January 2008.

³⁵ Wilson, 'Keeping Order and Fostering Decorum'; Rod Donald, 'MMP – Has it Delivered, Should it Continue?' *Representation* 35(1), 1998, 41-50.

The shift to MMP resulted in an immediate increase in the proportion of women in Parliament. Acknowledging a more diverse workforce, the parliamentary sitting calendar was adjusted to take school holidays into account.³⁶ This built on previous moves to make Parliament more family-friendly, including the establishment of a childcare centre on site in the early 1990s and lobbying by Ruth Richardson, as a mother of a newborn in the 1980s, for facilities close to the chamber for parents to feed and change babies.³⁷

New Zealand's progressive track record in terms of Māori representation, women's suffrage, and women's leadership was a point of significant pride even before MMP, and this legacy has in many ways been continued and extended. In 2018, Prime Minister Jacinda Ardern became only the second elected woman head of government to have a baby while in office. Under Speaker Trevor Mallard, there has been a concerted effort to make Parliament more 'family-friendly': actively encouraging, rather than merely allowing, the presence of babies in the chamber; establishing a policy of 'compassionate leave' for new parents, which does not affect proxy vote limits for parties; and building a children's playground for public use outside Parliament.³⁸

Not everything changed, however, in terms of parliamentary culture. Rod Donald, a key figure in the ERC who was later became co-leader of the Green Party and was elected as an MP, wrote in 1998 that hopes of 'a more consensual, less aggressive, more consultative and more co-operative parliament' were curtailed by the prevalence of political in-fighting and an unstable governing coalition. He claimed that 'MMP – the voting system – delivered but the politicians the voters chose to elect haven't'.³⁹

While the presence of women expanded under MMP in Parliament, Cabinet, and in senior leadership positions, experiences of women MPs in the post-MMP era show that sexist norms remain entrenched. Leading up to the 2020 election, several retiring women MPs from both the Government and Opposition called out instances of sexism they faced in their parliamentary careers, indicating this was a major reason for leaving

³⁶ Wilson, 'Keeping Order and Fostering Decorum'.

³⁷ John E. Martin, *The House: New Zealand's House of Representatives 1854-2004*. Palmerston North: Dunmore Press, 2004, p. 300.

³⁸ Sonia Palmieri and Kerryn Baker, 'Localising Global Norms: The Case of Family-Friendly Parliaments', *Parliamentary Affairs* 2020, doi:10.1093/pa/gsaa050.

³⁹ Donald, 'MMP', p. 41. Donald was first elected in 1996 as an Alliance MP.

politics. In her valedictory speech, National MP Sarah Dowie directly called out the media for what she described as their enabling of harassment from a fellow MP:

When a predator is able to manipulate the media for his agenda and the media is directly party to it, it is the media fraternity that needs to audit themselves as to their ethics and their conscious peddling of sexism and patriarchy. If it takes me to be New Zealand's scarlet woman to highlight this, then so be it.⁴⁰

Labour MP and former Minister Clare Curran, on her retirement from Parliament, spoke of an incident in which a National MP posed for a photo at a party conference with a toilet seat with a picture of Curran on it; the photo was then posted on Facebook:

I was so shocked when I saw it I have never been able to speak of it publicly because I felt embarrassed. I still feel quite traumatised by it ... I imagine whether they have used it or not and it's a sense of humiliation and weirdness. There's something sick about that. People who are prepared to do that ... What else are they prepared to do? They were literally encouraging people to piss on me.

She also described consistent harassment from right-wing bloggers and media commentators, and stated she believed the negative media attention she received was at least in part due to gender.⁴¹

These forms of sexism perpetrated outside the House are reinforced by the robust, hypermasculine style of politics still privileged in the debating chamber. While politicians commonly view the chamber 'as an environment where MPs were psychologically tested and where vulnerabilities were preyed upon',⁴² this is seen as an aspect of parliamentary life that is impossible to change. In this way, the aspirations of the Royal Commission for a 'better' democracy seem unfulfilled.

⁴⁰ Sarah Dowie, New Zealand Parliament, *Parliamentary Debates*, House of Representatives, 29 July 2020, p. 20164.

⁴¹ Donna Chisholm, "'I Physically Felt Like I Was Going to Die': Clare Curran Opens Up on Politics, Toxicity and Trauma'. *The Spinoff*, 4 July 2020. Accessed at: <https://thespinoff.co.nz/politics/04-07-2020/clare-curran-interview-donna-chisholm/>

⁴² Palmieri and Baker, 'Localising Global Norms', p. 12.

CHANGING STANDARDS OF BEHAVIOUR THROUGH A CODE OF CONDUCT

In 1992—the year of the first electoral reform referendum—a bipartisan parliamentary group proposed a voluntary code of conduct, which included obligations ‘to conduct himself or herself at all times in the Chamber in a manner which will enhance public respect for Parliament’ and ‘to extend courtesy to other MPs and the public at all times within the precincts of Parliament’.⁴³ It is not clear to what extent this voluntary code was taken up, but it did not seem to have a demonstrable impact on the standard of parliamentary behaviour and appeared defunct by 1995.

In the next House, MP Peter Dunne—who had resigned from the Labour Party to establish a minor centrist party—proposed another voluntary code of conduct:

In 1995, as a result of appalling incidents of Parliamentary behaviour, I proposed MPs be invited to sign up to a voluntary Code of Conduct, governing their behaviour in the House It was widely rejected at the time as ‘prissy’ and trying to curtail the robust nature of Parliamentary debate. [Former Labour Prime Minister] David Lange was particularly vocal, dismissing it as Parliament’s equivalent of taking the teetotaler’s pledge.⁴⁴

While the code of conduct was not introduced, Dunne instead began compiling what was termed the ‘bad boys list’: ‘an annual list of Parliament’s worst behaved MPs each year, based on the number of times an MP had been thrown out of the Chamber or asked to withdraw and apologise for comments made in the course of debate’.⁴⁵

The ‘bad boys list’ did not always solely contain men, but it was noticeably gendered. No woman ever topped the list. Several male MPs made regular appearances on the list, including Trevor Mallard, Winston Peters, Nick Smith and Tau Henare. While the list generated publicity, it did not seem to act as a deterrent for named MPs. Dunne described Mallard and Smith as being ‘unfazed and unrepentant, saying being named

⁴³ Quoted in Christopher Finlayson, ‘A Code of Conduct for Members of Parliament’. *Victoria University of Wellington Law Review* 167 1998, pp. 167-190, p. 187.

⁴⁴ Peter Dunne, ‘From “Prissy” to Popular’, *Newsroom*, 31 July 2020. Accessed at: <https://www.newsroom.co.nz/from-prissy-to-popular>

⁴⁵ Dunne, ‘From “Prissy” to Popular’.

on the list so regularly simply proved how effective they were as MPs'.⁴⁶ The limitations of the list—with varying points allocated for removals from the House, and being asked to withdraw and apologise, but none for behaviour outside the debating chamber—also meant more obvious acts of 'bad' behaviour were left out. One notable instance was in 2007, when Mallard and Henare had a physical altercation in the corridor outside the house, with Mallard punching Henare in retaliation for an offensive comment made earlier in the House. Henare later commented that the House was 'a robust place where things are said that are edgy, but you don't expect to get punched for it'.⁴⁷

In 2009, Dunne stopped compiling the list, arguing it was less necessary with a change in parliamentary behaviour since Lockwood Smith had become Speaker. That year, however, he gave Mallard a 'lifetime achievement award' 'for services to melodrama, fisticuffs, and generally aberrant behaviour'.⁴⁸ Perhaps ironically, Mallard would become Speaker in 2017 and be responsible for implementing the recommendations of the Francis Review.

In 1997, following the advent of MMP, the Government Administration Committee of the House of Representatives undertook an inquiry into a possible code of conduct. The inquiry focused on the need for safeguards against bribery and corruption, but noted:

It could extend to the professional conduct and behaviour of Members. There exists a compelling case for work to be done in this area. Many new Members, when they enter Parliament (especially those that arrived in such large numbers following the last general election) expect there to be some form of job description. As there is none, many seek guidance in an ad hoc way concerning the norms and rules of conduct and behaviour that are appropriate in and outside the House.⁴⁹

⁴⁶ Dunne, 'From "Prissy" to Popular'.

⁴⁷ Quoted in 'Punch was "Stupid" – Mallard', *The Dominion Post*, 31 January 2009. Accessed at: <https://www.stuff.co.nz/national/politics/12723/Punch-was-stupid-Mallard>

⁴⁸ Claire Trevett, 'A Bit More Order, But Still Room for Some Good Insults'. *New Zealand Herald*, 23 December 2009. Accessed at: <https://www.nzherald.co.nz/nz/a-bit-more-order-but-still-room-for-some-good-insults/N774M727R4FDEKWCZVL4R33MZM/>

⁴⁹ Quoted in Finlayson, 'A Code of Conduct for Members of Parliament', pp. 173-174.

In 1998, lawyer Christopher Finlayson (who would later enter Parliament and become New Zealand's Attorney-General) wrote an article setting out a case for a code of conduct for Members of Parliament. The article again focused on the need for safeguards against bribery and corruption, but noted parliamentary behaviour as another issue:

The change to MMP was supposed to herald a new and kinder Parliament. If anything, the institution is held in lower regard than ever ... there are real questions about whether some MPs know what is expected of them and whether they need the guidance of a code of conduct to help them improve their performance. It is also a source of some regret that, when considering a code, one must also consider once again questions about courtesy and exercising restraint in and around the House. Including such matters in a code of conduct may make the code seem pompous and even pious but certain incidents which have occurred in the last 12 months would indicate they are necessary.⁵⁰

Following the 1999 election and the formation of a Labour Government in coalition with the Alliance Party, Labour MP Ross Robertson advocated a code of ethics for MPs, modelled on the code of the UK House of Commons.⁵¹

In 2007, four of the six minor parties represented in Parliament jointly drafted and signed a voluntary code of conduct, urging other parties to also sign.⁵² While voluntary, the parties noted their intention was to gain enough support for the code that it could eventually be included in the Standing Orders.⁵³ This new proposal came from a belief amongst the minor parties that the principles of MMP were not being respected—that is, a more cooperative and consultative politics was being set aside for the standard bipartisan struggle in the House. In a letter to the Speaker, the party leaders argued 'an MMP Parliament demands a standard of behaviour that allows all voices to be

⁵⁰ Finlayson, 'A Code of Conduct for Members of Parliament', p. 188.

⁵¹ Margaret Wilson, 'A Code of Conduct for Members of Parliament – is the Time Ever Right?' Speech to 38th Presiding Officers and Clerks Conference, Rarotonga, Cook Islands, 12 July 2007.

⁵² Transparency International New Zealand, *New Zealand National Integrity System Assessment – 2018 Update*. Wellington: Transparency International New Zealand, 2018; Wilson, 'A Code of Conduct for Members of Parliament'.

⁵³ Wilson, 'A Code of Conduct'.

heard'.⁵⁴ Interestingly, the minor parties proposed that individual MPs be allowed to sign up to the code of conduct discreetly, 'to protect them from any bullying at the hands of colleagues'.⁵⁵

As was the case with Dunne's 1995 proposal, the code of conduct was not supported by the major parties. The major concern put forward was the impact of the proposal on the quality and 'robustness' of parliamentary debate. Another objection was the potential of the code to be 'used politically'.⁵⁶ The Speaker at the time, Margaret Wilson, noted a formal code of conduct as a recurring issue, but believed it unlikely that one would be introduced: 'The New Zealand Parliament ... has a long tradition of resisting regulatory intrusions into matters that govern the working of Parliament and the conduct of members'.⁵⁷

For more than ten years, there was indeed little progress on introducing a code of conduct for the New Zealand Parliament. This changed in light of the renewed attention on Parliament as a workplace, and media attention on bullying and harassment allegations. In early 2019, the publication of the CWP survey findings on bullying, harassment and violence against women parliamentarians prompted renewed calls for a code of conduct.⁵⁸ A spokesperson from Transparency International New Zealand argued the political culture did not lend itself to an effective code of conduct: 'The culture of Parliament is such that the very behaviours that require the code are demonstrated by MPs who fail to see its necessity'.⁵⁹

The Francis Review argued that a 'Parliamentary Workplace Code of Conduct is a basic requirement',⁶⁰ and that the code of conduct should be a part of employment agreements. It went on to note that 'some Members view a code of conduct as

⁵⁴ Wilson, 'A Code of Conduct'.

⁵⁵ Dunne, 'From "Prissy" to Popular'.

⁵⁶ Wilson, 'A Code of Conduct'.

⁵⁷ Wilson, 'A Code of Conduct'.

⁵⁸ See Alison Mau, '#UsToo – What's the Fix for Parliament's Harassment Problem?' *Stuff*, 31 January 2019. Accessed at: <https://www.stuff.co.nz/national/politics/opinion/110299468/ustoo--whats-the-fix-for-parliaments-harassment-problem>

⁵⁹ Transparency International New Zealand, 'The Parliamentary Code of Conduct is a First Step, Much More is Needed'. Press Release, 30 July 2020. Accessed at: <https://www.scoop.co.nz/stories/PO2007/S00399/the-parliamentary-code-of-conduct-is-a-first-step-much-more-is-needed.htm>

⁶⁰ Francis, *Bullying and Harassment*, p. 67.

unnecessarily prescriptive or overly politically correct'.⁶¹ It also recommended an Independent Commission for Parliamentary Conduct be set up to act as a mechanism for complaints.

In July 2020, Speaker Trevor Mallard released a code of conduct, drafted by a cross-party group of MPs. The code of conduct included commitments to:

1. Show that bullying and harassment, including sexual harassment, are unacceptable
2. Speak up if we observe unacceptable behaviour
3. Use our position of power or influence to help others, and avoid harm
4. Act respectfully and professionally
5. Behave fairly and genuinely, treating others the way we would like to be treated
6. Encourage diverse perspectives, and the free and frank expressions of views
7. Foster an environment where people feel safe and valued'⁶²

The code was not mandatory, with parties signing up on a voluntary basis. An enforcement mechanism was not implemented with the code of conduct, given strong opposition from some parties.

NORM CHANGE AND POINTS OF RESISTANCE

Mapping how gendered norms of behaviour have been challenged in the New Zealand Parliament, there are obvious patterns of resistance from major parties. Neither major party wanted large-scale reform to the electoral system, but this reticence was overcome by an activist Royal Commission and effective lobbying and public awareness from pro-reform groups. Yet coalition politics has prompted discord as much as consensus, and the combativeness of parliamentary culture has continued undiminished despite the anticipated effects of reform.

⁶¹ Francis, *Bullying and Harassment*, p. 68.

⁶² Craig McCulloch, 'Mallard Releases Code of Conduct Following Bad Behaviour in Parliament'. *Radio New Zealand*, 24 July 2020. Accessed at: <https://www.rnz.co.nz/news/political/421956/mallard-releases-code-of-conduct-following-bad-behaviour-in-parliament>

Entrenched resistance to norm change is particularly noticeable in terms of the valorisation of the Westminster principle of ‘robust debate’, perceived to be a masculinised style of parliamentary discourse. This has previously been raised as problematic in the New Zealand context. Former Speaker Wilson noted in a speech:

It is fair to observe in the New Zealand Parliament interactions between Members in the House have always been robust. During the first session in 1854 a Member is reported as having ‘marched in with his hat on, defied the chairman, flung a Gazette on the table and declared the session was over’ and then marched around the chamber flourishing his umbrella and daring anyone to evict him. The history of the House of Representatives is full of instances of disorderly behaviour and attempts by Speakers to maintain a sense of decorum. It is also disconcerting to note how many of our Speakers suffered from stress and retired with ill-health.⁶³

Even following the Francis Review, it seems that little has changed. In February 2021, a commentator described new Assistant Speaker Jenny Salesa—a woman of Tongan descent—being ‘subjected to an extended barrage of points of order from four senior, male, National Party MPs ... They contradicted her, implied she was incompetent, even tried to gaslight her over the rules’. He went on to say:

Some would call it blood-sport, or a search for limits, or an attempt to permanently undermine the newcomer’s confidence and authority. When it is also male on female the label might go further ... [and] poor behaviour in the chamber is overwhelmingly the province of men.⁶⁴

In a context where MPs and major parties have historically shown fierce opposition to ‘regulatory intrusions’,⁶⁵ the introduction of a code of conduct is notable. This is a positive sign for ongoing campaigns to institute codes of conduct in similar parliamentary cultures, including the Australian Parliament. Yet the effectiveness of the code of conduct will be severely limited by its voluntary nature and by the absence of an independent accountability mechanism. Furthermore, changing political culture

⁶³ Wilson, ‘Keeping Order and Fostering Decorum’.

⁶⁴ Phil Smith, ‘Baptism of Fire for New Master’. *The House*, 27 February 2021. Accessed at: <https://www.rnz.co.nz/national/programmes/the-house/audio/2018785160/baptism-of-fire-for-new-master>

⁶⁵ Wilson, ‘A Code of Conduct’.

requires a ‘multifaceted response’,⁶⁶ and a code of conduct is just one tool among many; using it in isolation will further curtail its effectiveness. The experiences of Sarah Dowie and Clare Curran, among others, suggest that the consideration of Parliament as a workplace needs to be expanded, with the media, including bloggers, key actors in perpetrating—but also potentially preventing—harassment.

Despite significant shifts in relation to parliamentary workplace culture in recent years, there continues to be significant reluctance on the part of MPs to accept any changes perceived as affecting the nature of parliamentary debate. Even where issues of bullying and harassment, including sexual harassment, within Parliament are widely acknowledged—affecting and involving staff, MPs, and media—change within Parliament is still only accepted if it stops at the door of the House. Despite moves to bring parliamentary workplace culture more in line with other workplaces, including in zero-tolerance approaches to bullying and harassment, the principle of robust debate is still used as an excuse to stymie what are still perceived as ‘intrusions’ into parliamentary norms of behaviour. This aspect of political culture is a major barrier to the acceptance, and effectiveness, of a parliamentary code of conduct. Furthermore, it is a challenge to efforts to create a diverse, representative and inclusive Parliament. As Curran noted upon leaving politics:

People say, ‘It’s politics’. But is that really what politics is? Is that really what it should be – such a gladiatorial sport that scalps are counted and you measure success by whether or not you survived or whether you got someone’s scalp? That’s not the political system that I aspire to.⁶⁷

CONCLUSION

Despite significant changes over time—in demographics, in the representation of special interest groups, and in how representatives are elected and who they represent—there are enduring consistencies in New Zealand parliamentary culture. Among the most entrenched is the aggressive and adversarial style of political debate.

⁶⁶ Krook, ‘Westminster Too’.

⁶⁷ Chisholm, ‘I Physically Felt Like I Was Going to Die’.

This aspect of parliamentary life is perceived as implacable, even as it is recognised as a key barrier to the participation of under-represented groups in politics.

In this context, there is a significant burden on institutional reforms to effect cultural change and create a safer workplace for marginalised groups. While MMP has been a popular reform, and has substantially altered the demographics of Parliament as well as how governments are formed, its promise of a more inclusive and collegial style of politics has been largely unfulfilled. The 2018 CWP survey, the 2019 Francis Review, and the stories of former MPs have painted a picture of a parliamentary workplace that is hostile to ‘space invaders’: women, Māori people, people of colour, LGBTQI people, and many who experience multiple overlapping forms of discrimination. While a code of conduct may be a baseline requirement for change, a version that is voluntary and lacking an independent enforcement mechanism seems unlikely to make a substantive impact.

Successive efforts to improve the inclusivity of the New Zealand Parliament, and to create a safer workplace for women and marginalised groups, have largely failed in creating transformative, long-term change to parliamentary culture. A key absence is the political will to change the style and substance of political debate to move from the valorisation of ‘robust’ debate and a quest for ‘scalps’ to a more collegial, gender-sensitive and diversity-sensitive Parliament. New Zealand’s experience shows that even in relatively progressive political contexts—and even where there is a collective will from the electorate for a change to the style and substance of politics—this is easier said than done.