Gender-Responsive Law-Making as a Democratic Safeguard: Comparative Lessons for Parliaments Under Pressure

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Abstract

Across liberal democracies, declining public trust, increasing polarisation and persistent failures of inclusive representation have renewed interest in mechanisms to strengthen the quality and legitimacy of law-making. This paper examines whether parliamentary committees undertaking pre-legislative gender scrutiny can strengthen democratic practice by institutionalising gender equality within law-making. Drawing on comparative research in Tasmania, the Australian Capital Territory, Canada and Spain, it analyses four parliamentary committees mandated to scrutinise legislation through a gender equality lens. It combines Gender Legislative Index evaluations of every bill considered by these committees with interviews with parliamentarians, parliamentary staff and civil society actors to assess whether gender auditing substantively influences legislative scrutiny or remains procedural or performative. The analysis reveals significant variation in how committees conceptualise gender, address intersectional disadvantage and incorporate lived experience. While some improve legislative quality and parliamentary accountability, others are constrained by narrow mandates, limited authority and insufficient capacity to identify, hear and respond to diverse experiences. The paper draws lessons for parliamentary institutional design, participatory practice and scrutiny standards. It argues that, when properly mandated, resourced and institutionally embedded, gender auditing is not merely a technical supplement to law-making, but a democratic safeguard supporting more inclusive, transparent and legitimate legislative processes.

1. Introduction

In 2024, the Australian Capital Territory's (ACT) Legislative Assembly considered the *Liquor (Night-Time Economy) Amendment Bill*, a measure framed as an economic reform designed to "enliven and diversify Canberra's night-time and entertainment economy".[1] The Bill sought to expand

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[1] T. Cheyne MLA, Liquor (Night-Time Economy) Amendment Bill Explanatory Statement and Human Rights Compatibility Statement, March 2024, p. 2.

trading hours, reduce regulatory burdens and introduce a more flexible licensing regime, particularly allowing bars and pubs in the ACT to extend their hours of service around major sporting events. Much of the debate surrounding the Bill was underpinned by evidence of the night-time economy's significant contribution to employment and economic activity in the ACT. Yet, despite the bill's referral to the ACT's Standing Committee on Economy and Gender and Economic Equality, a body expressly mandated to scrutinise both economic policy and its distributional and gendered effects, the Committee declined to conduct an inquiry. Instead, the Bill was examined by the Standing Committee on Justice and Community Safety. The resulting legislation, unchanged in substance, pursued its economic objectives without any analysis of their gendered consequences. The Bill's human rights compatibility analysis identified only the right to work and other work-related rights as being engaged. No gendered safeguards or monitoring mechanisms were incorporated, notwithstanding well-established evidence linking increased alcohol availability to heightened risks of gender-based violence. One study spanning several states and territories found that alcohol was involved in between 24 and 54 percent of family and domestic violence incidents reported to police.[2]

This episode illustrates a deeper set of questions about the institutional promise and practical limits of parliamentary gender audit committees. As will be seen, "women's issues" tend to be defined narrowly within legislative scrutiny processes, leading gendered harms often rendered peripheral to ostensibly economic reforms. Further questions pertain to whose voices are heard, or deferred, when committees determine whether gender analysis is relevant. Ultimately, serious questions must be asked about how effective gendered scrutiny is if gender equality mandates are procedurally sidestepped or substantively diluted. Using this case as a point of departure, this article examines whether gender audit mechanisms embedded within parliamentary committee systems meaningfully shape law-making, or whether, as this example suggests, their impact remains contingent, uneven and vulnerable to institutional gatekeeping.

The responsibility of parliamentary committees for scrutinising bills for their gendered impacts before their passage into law has had a short but significant history. Earlier research suggests that there are, more or less, thirty such committees that "audit" bills for their gendered impacts worldwide,[3] although the number tracks closer to nearly double that.[4] Such gender-focused committees exist in parliaments across all regions of the world: in Europe, for example, in Belgium, Denmark, Germany and Spain; in Latin America, in Chile, Colombia, El Salvador and Guatemala;

[2] Mayshak et al., 'Alcohol-Involved Family and Domestic Violence Reported to Police in Australia', 37 *Journal of Interpersonal Violence* (2022) NP1658.
[3] Childs, 'Feminist Institutional Change: The Case of the UK Women and Equalities Committee', 76 *Parliamentary Affairs* (2023) 507, at 507.
[4] Vijeyarasa, 'Institutionalising Women's Experiences in Law: Possibilities and Pitfalls of Parliamentary Gender Audit Committees', 49 *Alternative Law Journal* (2024) 114, at 116.

across Asia, in Bangladesh, Nepal and the Philippines; in Africa, for instance, in Burundi, Ghana, Nigeria and South Africa; and in the Middle East, in Bahrain, Jordan and Lebanon, to name just a few.

One Spanish informant, a newly appointed member of the Spanish Equality Committee in Congress, described the role of the committee as like Jiminy Cricket, the character from Carlo Collodi's *The Adventures of Pinocchio*. Jiminy Cricket is the "voice of conscience for the rest of the Ministries, Departments or areas of a local council", a role that also means the Ministry of Equality "does not only have to manage its own laws".[5] Such committees hold significant potential to be the voice inside the legislative process that asks: Who will this law affect? Whose experiences have been overlooked? What inequalities might this law reproduce, and how could this bill be made better before it becomes law?

Drawing from this expectation, this article considers whether such committees are effective in centring a diversity of voices and experiences that may otherwise be overlooked in law-making. Extending those questions further and building on but moving beyond institutional and structural questions, this paper further asks, what is the optimum mode of gendered legislative scrutiny for parliamentary committees to help progress towards the sought-after goal of gender-responsive law-making?

Using a mix-method approach, the analysis seeks to understand how parliamentary committees with a gendered mandate perform such legislative scrutiny, what is their impact and what factors shape the opportunities and limits of these committees to centre women's lived experiences in legislative debates. The analysis, which draws on experiences from the ACT, Tasmania's Joint Sessional Committee on Gender and Equality, which was given an expanded purview in August 2026 with its new name, the Joint Sessional Committee on Gender, Gender-based Violence and Equality; the Canadian House of Common's Standing Committee on the Status of Women and the *Comisión de Igualdad del Congreso de los Diputados* (hereinafter, the Equality Committee of the Spanish Congress), reflects mixed success when it comes to the specific task of *ex-ante* scrutiny and offers reasons as to why. In some instances, concerningly, as in the above ACT example, the footprint appears regressive. While the article sheds notable doubt as to the significance of such legislative scrutiny, it also suggests way forward. Ultimately, this paper argues that while gender audit committees represent a meaningful democratic innovation, their effectiveness is fundamentally contingent on improved capacity for gender auditing, a broader depth of issues within their purview and for Committee recommendations to transition into legislative change. Without these conditions, they risk becoming performative rather than transformative.

[5] Informant 17, Committee member, *Comisión de Igualdad del Congreso de los Diputados* (Equality Committee of the Congress of Deputies)

2. Methodology

In parliamentary law-making bodies across the globe, the responsibility for pre- or *ex-ante* legislative scrutiny is regularly placed on a parliamentary committee. Such scrutiny is seen as more democratic[6] and as leading to "better" regulation.[7] It may be gender-specific or "gender-sensitive' scrutiny;"[8] it might take the form of human-rights based legislative scrutiny; [9] or it may be *ex-ante* scrutiny focused on specific issues, such as gender-recognition[10] or freedom of religion.[11] This article focuses on the effectiveness of dedicated parliamentary committees in advancing gender-responsive law-reform. It defines effectiveness to encompass both the influence exercised by Committee members over legislative debates and the impact of the Committee on enacted laws; practices of inclusiveness to consider how such Committees engage the views of women who lives are shaped by the legislation under debate; and how well Committees are able to listen and do so deeply.[12] In doing so, it is worth recognising that Committee members' goals may not necessarily be one and the same; nor does the Committee's overarching purpose always reflect the goal of gender-responsive law-making, nor feminist intersectional perspectives.

Gender-responsive law-making is defined in this article as the act of making laws that make "societies better for women, by neither accepting nor reinforcing gender disparities by merely papering over them".[13] Gender-responsive legislation entails legislative systems that are "more responsive to explicit and implicit gender issues. It facilitates accountability, in legislative and policy implementation, to the specific needs of different sexes and to different gendered perspectives on pivotal social, economic and political issues".[14] The practice often entails "arduous, line-by-line scrutiny of draft laws and existing laws" [15].

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[6] Afaq and Thachappilly, 'The Key to Democracy: Mandatory Pre-Legislative Consultation - ProQuest', *Cardiometry* 903, at 903.
[7] D. Jancic, Better Regulation and Post-Legislative Scrutiny in the European Union, 3391526, 20 February 2019.
[8] Johnson, 'Legislating for Change: Gender-Sensitive Ex-Ante Legislative Scrutiny in Practice', 10 *The Theory and Practice of Legislation* (2022) 249.
[9] Horrigan, 'Reforming Rights-Based Scrutiny and Interpretation of Legislation', 37 *Alternative Law Journal* (2012) 228; Mowbray, 'Gender Audits and Legislative Scrutiny: Do Parliamentary Human Rights Bodies Have a Role to Play?', in *International Women's Rights Law and Gender Equality*, (2021).
[10] Lynch and Martin, 'Can Parliaments Be Strengthened? A Case Study of Pre-Legislative Scrutiny', 35 *Irish Political Studies* (2020) 138.
[11] Mould, 'Listening to the People? A Comparative Analysis of Parliamentary Committee Inquiries Concerning Freedom of Religious Belief in Australia and Scotland', in R. Barker, C. B. Andersen and Mo. Alumari (eds) *Comparative Approaches to Law and Religion: Methods and Epistemologies of Comparative Legal Analysis*, (2025).
[12] Ailwood et al., 'Beyond Women's Voices: Towards a Victim-Survivor-Centred Theory of Listening in Law Reform on Violence Against Women', 31 *Feminist Legal Studies* (2023) 217.
[13] Vijeyarasa, 'Making the Law Work for Women: Standard-Setting through a New Gender Legislative Index', 44 *Alternative Law Journal* (2019) 275, at 275.
[14] *Ibid.*, at 278.
[15] Johnson, *supra* note 8, at 250.

In terms of the two latter goals, engaging lived experience and listening to a diversity of voices, such *ex-ante* scrutiny of legislation is meant to provide an opportunity for civil society, academia, public bodies, businesses and citizens with lived experiences to contribute their views and evidence on how proposed new laws are likely to affect women, men and non-binary people.[16] This role of parliamentary committees to scrutinise draft bills and report back with observations and/or recommendations to the ministry sponsoring the legislation is designed to "enhance the capacity of parliament to influence government-sponsored legislation.[17] The same process applies in cases of private members bills, that is, bills introduced by members of parliament who are not government ministers, such as backbenchers and opposition. The task seeks to challenge instances where the label "gender-neutral" is too quickly applied to forgive what may be a gender-blind legislative approach, bringing to the fore obvious and less obvious differences between people of different genders that are ignored when they ought to be considered in legal drafting.[18] It is hoped that with such scrutiny of all bills, discriminatory provisions are made visible and otherwise missed opportunities to advance gender equality uncovered and remedied.[19] It is one side of a two-part coin, gendered ex-post scrutiny being on the other side.[20]

1. Does the law guarantee access to non-discriminatory and accessible, affordable, acceptable services?

2. Does the law guarantee access to information and education or require the provision of information and education on the issue?

3. Does the law guarantee non-coerced and informed decision-making and where relevant, protect women's confidentiality?

4. Does the law promote equal relations between men and women?

5. Does the law protect women from situations of vulnerability linked to their gender?

6. Does the law guarantee accessible and effective remedies (i.e. access to justice)?

7. Does the law promote the comprehensive monitoring of the situation of women? This includes promoting gender-disaggregated data collection on the nature of the problem.

Figure 1: 7 CEDAW-based Criteria used in the GLI to

The article adopts a mix-method approach to analysing the effectiveness of the *ex-ante* legislative scrutiny. First, the Gender Legislative Index (GLI), a human-driven, machine-learning enabled tool created to measure the gender-responsiveness of legislation against international benchmarks,[21] has been applied to conduct its own *ex-ante* scrutiny, with the GLI's evaluators identifying the gendered impacts of the bill that would have required further debate and possibly amendment. In short, the method seeks to "audit the auditors", comparing what the GLI would recommend for amendment in a bill with what committee members have identified and prioritised through their own pre-legislative scrutiny.

[16] *Ibid.*
[17] Lynch and Martin, *supra* note 10, at 138.
[18] Vijeyarasa, 'In Pursuit of Gender-Responsive Legislation: Transforming Women's Lives through the Law', in R. Vijeyarasa (ed.) *International Women's Rights Law and Gender Equality: Making the Law Work for Women*, (2021), at 4.
[19] Johnson, *supra* note 8, at 250.
[20] *Ibid.*; Knap, Legemaate and Friele, 'Case Studies on the Impact of Ex-Post Legislative Evaluations in Dutch Healthcare: A within and Cross-Case Analysis', 32 *The Journal of Legislative Studies* (2026) 42.
[21] R. Vijeyarasa, *Gender Legislative Index*, Gender Legislative Index, 2019, available at https://www.genderlawindex.org/.

Designed in 2018 in collaboration with a team of software engineers at the University of Technology Sydney's Rapido Social Impact, the tool was piloted on four countries, Australia, Indonesia, the Philippines and Sri Lanka.[22] The lessons have then been applied in this project to four parliamentary committees, two in Australia, Canada's House of Commons Standing Committee on the Status of Women and the Spanish Equality Committee in Congress.[23] The three sites of study were chosen for numerous reasons, but foremost, Canada and Spain bring longevity and both offer Australian committees a long history of experience with pre-legislative gendered scrutiny. The Spanish model is distinctive for its legislatively mandated requirement that gender impact reports accompany draft legislation before it proceeds through the legislative process, a report that is embedded within the broader *memoria de impacto normativo* (regulatory impact memorandum),[24] which government departments are required to complete when drafting legislation. Canada's approach to pre-legislative gendered scrutiny differs structurally from Spain's. Rather than a standalone statutory mandate for gender impact reports on legislation, Canada has developed Gender-Based Analysis Plus (GBA+), an analytical tool used to assess the impact of legislation, policies, programs and budgetary measures on diverse groups. GBA+ is mandatory in all Treasury Board Submissions, Memoranda to Cabinet and Departmental Results Frameworks and Reports, and is reflected in the Cabinet Directive on Regulations.[25] Comparatively, while Australia introduced an important gender analysis guide to assist Australian Public Service (APS) policy makers developing a Cabinet Submission or New Policy Proposal (NPP), it is not a mandatory tool.[26]

In this contrast, the GLI offers an alternative tool for such pre-legislative scrutiny. The GLI's seven criteria, derived from the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a near-universally ratified global treaty to address discrimination and advance women's rights,[27] provides a basis for this auditing (see Figure 1). The seven questions used to assess each bill *ex-ante* were identified from a process of identifying and grouping the legal obligations required by CEDAW and its then 37 General Recommendations.[28] Its method has

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[22] R. Vijeyarasa, *The Woman President: Leadership, Law and Legacy for Women Based on Experiences from South and Southeast Asia*, (2022).
[23] *Gender Law Index*, available at https://genderlawindex.org/projects/auditing-the-auditors.
[24] Government of Spain, *BOE-A-2017-13065 Royal Decree 931/2017, of October 27, Which Regulates the Regulatory Impact Analysis Report.*, available at https://www.boe.es/buscar/act.php?id=BOE-A-2017-13065.
[25] W. and G. E. Canada, *Gender-Based Analysis Plus (GBA Plus)*, 31 March 2021, available at https://women-gender-equality.canada.ca/en/gender-based-analysis-plus.html.
[26] Australian Government Department of Prime Minister and Cabinet, *Including Gender: An APS Guide to Gender Analysis and Gender Impact Assessment | PM&C*, 22 December 2025, available at https://www.pmc.gov.au/resources/including-gender-aps-guide-gender-analysis-and-gender-impact-assessment.
[27] Vijeyarasa, 'Quantifying CEDAW: Concrete Tools for Enhancing Accountability for Women's Human Rights', 34 *Harvard Human Rights Journal* (2021) 37.
[28] Vijeyarasa, 'Three Decades of CEDAW Committee General Recommendations: A Roadmap for Domestication, Reporting and Stronger Accountability for Women's Rights', 19 *Max Planck Yearbook of United Nations Law* (2020) 797.

been applied to over 140 laws and through this current work, to 39 bills from four parliamentary committees. The GLI conducts pre-legislative scrutiny in two steps. It first considers a scale from gender-regressive to gender-responsive in answer to each of the seven assessment questions ("criteria"). The second scale establishes bands for an overall assessment of a bill, committee report of a piece of legislation, from "Complete disregard for international standards" to "Meeting international standards". The final evaluation is aggregated using a machine-learning algorithm based on a decision-tree. The GLI algorithm learns from each evaluation across the seven assessment questions and its relationship to a band across the entire dataset. It is used to provide an overall assessment, while retaining the disaggregated evaluations from each of the evaluators. For this project, the evaluation has been conducted in three stages: first an evaluation of the Bill that has come before the Committee; second an evaluation of the Committee's recommendations; and third, an evaluation of the Law as enacted.

The above method was coupled with qualitative field research in the four cites of study.[29] A common reflection across Canada, Tasmania and the ACT – but notably different in Spain – was a hesitancy among Committee members to meet with the research team, suggesting a reluctance by individual committee members for their role on the committee and the committees' overall effectiveness, to be scrutinised. The research was undertaken following UTS Human Research Ethics approval (ETH25-10700). To maintain anonymity, across all four sites of study, all current and former committee members, including current and former chairs, are referred to as "Committee Members". Witnesses, whether members of the public service, are collectively described as "Witness". Staff who work for the parliament in some capacity are all named "Parliamentary Services" rather than naming their specific capacity or division of parliament in which they work.

3. Emerging lessons

The comparison reveals no single model of gender scrutiny as consistently effective. Its influence depends on the breadth and enforceability of the committee's mandate, the quality of participation and gender analysis, and whether recommendations generate institutional accountability. Across all four jurisdictions, formal scrutiny mechanisms remain vulnerable to discretionary engagement, uneven implementation and limited authority, as reflected in Table 1. Below follows four emerging lessons, drawing from both the Gender Legislative Index evaluations and informant data.

[29] We reached a variety of informants in each of the four sites, including former and current committee members; members of the government whose responsibilities include aiding Committee deliberations; and witnesses that have come before the Committee. Overall, the number of informants was as follows: 12 informants in Canada; 6 in the ACT; 6 in Tasmania; and 8 in Spain.

Table 1: Comparative Overview of Pre-Legislative Gender Scrutiny Mechanisms

Variable	**ACT**	**Tasmania**	**Canada**	**Spain**
Committee	Standing Committee on Economy and Gender and Economic Equality (2020-2024)	Joint Sessional Committee on Gender, Gender-based Violence and Equality (2022-Present; renamed August 2026)	House of Commons Standing Committee on the Status of Women (2004-Present)	*Comisión de Igualdad del Congreso de los Diputados* (Equality Committee of the Congress of Deputies) (2008-Present)
Mandate breadth	Dual mandate (economy and gender equality); referral of bills is discretionary	Standalone gender mandate; expanded in 2026 to include gender-based violence; has undertaken inquiries beyond traditional "women's issues" (e.g., male suicide, LGBTQI healthcare)	Standalone gender mandate focused on the status of women; supported by GBA+ framework applied across government	Legislatively mandated gender impact reports (*memoria de impacto normativo*) required for all draft legislation; Committee scrutinises equality-related bills
Scrutiny model	Ex-ante scrutiny of referred bills; Committee may decline to inquire	Ex-ante bill assessment and standalone inquiries; trial bill assessment process	Ex-ante and thematic study model of bills and policy issues	Committee examines equality-specific bills and studies non-legislative proposals
Participation mechanisms	Public submissions and hearings on referred bills; limited engagement observed in practice	Public submissions, oral hearings and inquiries; relatively wide consultation demonstrated in the Expungement Bill process	Witness testimony and written submissions; some concerns about aggregation of diverse communities into single hearing slots	Witness testimony and government consultation; comparatively greater willingness of Committee members and informants to engage with research
Committee composition	Membership confined almost entirely to women	Approx. 80 percent of membership composed of women	Membership at time of publication entirely women	Membership confined almost entirely to women
Gender lens tool	No standardised tool; GLI applied retrospectively by the research team	No standardised tool; GLI applied retrospectively by the research team	GBA+ as a government-wide analytical framework; GLI applied retrospectively by the research team	Mandatory gender impact reports embedded in regulatory process; GLI applied retrospectively by the research team
Key strengths	Demonstrated capacity to reveal structural gender inequality in "neutral"	Expansive definition of gender; intersectional awareness	Longevity and institutional maturity; established	Legislative mandate for gender impact assessment; structural embeddedness;

	legislation (e.g., *Long Service Leave Bill*)		GBA+ infrastructure; strong participatory traditions	comparatively open institutional culture
Key limitations	Committee declined inquiry on 13 of 15 referred bills; discretionary referral enables gatekeeping; ACT Liquor Bill passed without gendered analysis	Recommendations can be rejected without public accountability (e.g., Local Government Bill); influence depends on governmental receptivity	Uneven compliance with GBA+ across departments; participation reflects gendered exclusions; limited authority to compel government response	Risk of formulaic compliance with mandatory reporting; gender impact reports can be superficial; effectiveness varies by department
Overall effectiveness	Mixed; isolated successes but systemic underperformance due to discretionary engagement	Promising; expansive mandate and notable successes, but enforcement remains a vulnerability	Established but constrained; strong infrastructure undermined by inconsistent application and limited enforcement	Structurally embedded but procedurally vulnerable; mandatory requirement does not guarantee substantive analysis

A. Gender-lensing the Law: What constitutes a women's issues

"…Examining, assessing and also expressing what should be improved or modified in all legislation relating to equality, at the end of the day, is an area that seeks to improve democracy, because equality means that all of us have the same opportunities and the same justice."

– Informant 14, Spanish Equality Committee in Congress

How gendered *ex-ante* scrutiny is conducted differs from committee to committee. In Fiji, the Parliament's Standing Orders require *all* committees to consider gender equality and ensure that the impact on both men and women is explored in all matters.[30] Every committee report should theoretically include a "gender analysis" section and the parliament hosts a "gender data hub" on its website to help Members of Parliament and staff find gender- and sex-disaggregated data.[31] Like Canada, the European Parliament has a standalone committee dedicated to advancing the interests of women, the Committee on Women's Rights and Gender Equality (FEMM).[32] "Gender mainstreaming amendments" over time have allowed FEMM to introduce a gender perspective

[30] S. Palmieri, *Gender Sensitive Parliaments in Fiji: Between International Norms and Localised Change*, (2025), available at https://link.springer.com/10.1007/978-3-031-98721-2, at 10.
[31] Johnson, *supra* note 8, at 258.
[32] Oakley, 'FEMM Committee as Feminalist Space: Gendered Legislative Styles in the European Parliament', *Independent Study Project (ISP) Collection* (2016).

into the reports of other committees on specific issues. A gender mainstreaming network, chaired and coordinated by FEMM, links Members of Parliament and staff appointed to bring a gender dimension into the work of committees and delegations.[33]

Regardless of the form gendered scrutiny takes, it is well-established that when women are subjects of the law, they are frequently conceptualised as the victims of violations of bodily integrity. Gender is frequently considered relevant to gender-based violence, reproductive health and issues within the family, while other areas of law are deemed gender-neutral, devoid of any need to bring a gender perspective to regulation of, for instance, bankruptcy, trade or financial regulation and economic growth.[34] With such a narrow understanding of gendered impacts, we risk the failure to consider how economic reforms, such as the pursuit of greater flexibility for liquor licenses in the ACT, overlook evidence-based gendered impacts.

The potential of committees responsible for pre-legislative gendered scrutiny to exercise influence beyond these so-called "women's issues" and even create a basis upon which these concerns are recognised as significant policy priorities is clearly limited but as both the ACT and Tasmania, nonetheless real possibilities. In 2022, the Tasmanian Committee considered the *Local Government (Amendment) Code of Conduct Bill*,[35] a first task for the Committee that presented a rare opportunity to consider what gender-lensing legislation looks like outside of oft-considered domains. The bill 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.[36] Yet the law passed with few, if any amendments and none pertaining to these gendered concerns. These realities naturally lead us to ask whether a standalone committee, dedicated to gender, has an influence beyond traditional gendered domains.

The Committee achieved greater success in examining the *Expungement of Historical Offences Amendment Bill 2024*, which sought to remove records relating to historical offences for consensual same-sex conduct and cross-dressing, including those concerning deceased Tasmanians. It also extended the expungement scheme to electronic records, introduced compensation and protected applicants' confidential information. More significantly, following extensive consultation, the Committee challenged the Government's proposed ex gratia payments of $2,500 to $5,000 as inadequate recognition of the trauma and harm suffered by Tasmania's LGBTQI community.

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[33] Johnson, *supra* note 8, at 257.
[34] Vijeyarasa, 'What Is Gender-Responsive Legislation? Using International Law to Establish Benchmarks for Labour, Reproductive Health and Tax Laws That Work for Women', 29 *Griffith Law Review* (2020) 334, at 335.
[35] Joint Sessional Gender and Equality Audit Committee, *Local Government Amendment (Code of Conduct) Bill 2022 Trial Bill Assessment*, No. 9, (2023), available at https://www.parliament.tas.gov.au/__data/assets/pdf_file/0020/71237/Final-Report-Trial-Bill-Assessment_for-Tabling.pdf.
[36] *Ibid.*

Drawing on independent expert advice which considered the German model, which through other means provides additional compensation for harm to health or employment, the Committee recommended an independently determined payment of between $15,000 and $100,000 following successful expungement. In doing so, the Committee framed redress not merely as the removal of a criminal record, but as recognition of the human rights violations and enduring harms produced by historical criminalisation.

Perhaps unexpectedly, the Committee has also demonstrated an expansive understanding of gender, examining how gendered harms affect men, women and gender-diverse people and intersect with other forms of disadvantage. Its first inquiry examined Tasmania's comparatively high rate of male suicide. Yet the Committee's 2023 report was able to distinguish between deaths by suicide, which were higher among men, and attempted suicide, which was more prevalent among women. It also identified relationship difficulties with a spouse or partner as a relevant gendered driver.[37] The Committee has also examined the sexual and reproductive healthcare experiences of Tasmania's LGBTQI community as part of its inquiry into gender bias in healthcare,[38] as well as rising rates of homelessness among Tasmanian women. These inquiries demonstrate that a dedicated gender committee can extend its scrutiny beyond conventionally defined "women's issues" and to provide a more nuanced understanding of how women experience legislation to ultimately encompass the varied and intersecting experiences of women, men and gender-diverse people.

B. Women's Voices: Participation as a democratic issue

> "We're talking about democracy at the end of the day. And you want to make sure that in a community like Canada, that everybody's voice is heard and validated. And a big way to do that is to make sure that those voices do come and appear, not just to give testimony at a committee, but they also have the ability to provide written submissions as well, to share their experience and what happens."
>
> – Informant 4, Committee member, Canadian House of Commons Standing Committee on the Status of Women

Feminist critics have long identified the tendency of the law to exclude, shape and limit categories of harm. The result is a situation that needs reframing. Women's voices have been pivotal to that process of "naming and framing of new legal wrongs".[39] Kathryn Abrams long ago reflected upon

[37] Joint Sessional Committee on Gender and Equality, Short Inquiry Process into Gendered High Rates of Suicide Ideation and Suicide in Tasmania, 21 March 2023, pp. 4, 7.
[38] Joint Sessional Committee on Gender and Equality, Inquiry into Tasmanian Experiences of Gendered Bias in Healthcare, 14 August 2024.
[39] Ailwood et al., *supra* note 12, at 218.

the value of a feminist narrative, one that offers a counter to what we often see as expected or normalised in parliamentary settings. By contrast with "scientific rationality" which prevails in our society and "privileges universality, statistical significance, and logical deduction as ways of knowing about the world", feminist narratives "present experiences as a way of knowing what which should occupy a respected, and in some cases a privileged position, in analysis and argumentation".[40] Narrative is essential to bring new accounts, incorporate marginalised voices and de-centre the powerful.[41]

Arguably the need to give attention to voice and listening is even greater in the parliamentary context, where participation in parliamentary debates already reflects gendered patterns. Research demonstrates that female representatives participate less in legislative debates on topics characterised as masculine.[42] When evidence is presented before a parliamentary committee, listening also takes a different form. When calling upon and then listening to witnesses, committee members may be presumed to, but do not necessarily value social scientific data, despite the relevance of such gendered evidence in law reform concerning gender-based violence and family law.[43] This is arguably an even greater challenge in areas of law reform, such as family law, "which is fraught with competing gender interests and claims.[44]

So stark is the gendering of experiences and testimony, that some scholars challenge the very possibility of evidence-based policy. Drawing on the experiences of child support law reform in Australia, Kay Cook and Kristin Natalier argued that it is not the type of data that matters but rather, male privilege will shape its interpretation and use in law reform processes.[45] Certain voices are excluded and displaced as unauthoritative; others are valued.

With long and deep attempts to normalise women's voice in the law-making process, women's voices have slowly come to be seen as "valid" and a robust basis for law reform.[46] Yet to overcome performativity in parliamentary practice, a focus on voice must be mirrored by attention to listening to foster meaningful exchange.[47] Research by Sarah Ailwood and other Australian scholars demonstrates how "inadequate listening" silences women's voices. Law reform processes may *refuse* to listen; law reform process may elicit women's voices but fail to do so with openness, receptivity and attentiveness; or law reform may only listen selectively.[48] An emphasis on speaking

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[40] Abrams, 'Hearing the Call of Stories', 79 *California Law Review* (1991) 971, at 976.
[41] Cook and Natalier, 'Gender and Evidence in Family Law Reform: A Case Study of Quantification and Anecdote in Framing and Legitimising the "Problems" with Child Support in Australia', 24 *Feminist Legal Studies* (2016) 147, at 151.
[42] Bäck and Debus, 'When Do Women Speak? A Comparative Analysis of the Role of Gender in Legislative Debates', 67 *Political Studies* (2019) 576, at 576.
[43] Cook and Natalier, *supra* note 42.
[44] *Ibid.*, at 150.
[45] *Ibid.*, at 152.
[46] Ailwood et al., *supra* note 12, at 218.
[47] *Ibid.*
[48] *Ibid.*, at 220.

without hearing risks the ongoing tendency to ignore the voices of particularly marginalised groups – culturally and racially diverse women, LGBQ+ individuals, transgender women and women living with disabilities.[49]

Whether women's voices are heard in turn directly informs whether "consultation" should be seen as legitimate. This is particularly important in contexts where consultation is used to justify outcomes, recommendations, policy reform and law reform proposals, despite the situation remaining unclear whether women's experiences and their voices exert any influence over law reform processes.[50] Even when opportunities exist for consultation, who is invited to present their experiences becomes a key issue. Olena Hankivsky recognised this problem in the Standing Committee hearings on Gender Based Analysis in Canada many years ago when a representative from the women's movement reported: "They ask for Aboriginal women to participate and they schedule us all together; they ask for a joint presentation...they don't see the differences between the groups."[51] There is also a tendency for the government to only consult with "groups that fit hegemonic ideals of femininity and mainstream ideas," thereby excluding "marginalized, critical voices.[52]

Nonetheless, it is arguable that the struggle by the women's movements to ensure that women's voices are listened to and women's insights are valued has skewed whose voices are valued and in what contexts. Informant data suggests an over-correction to account for the voices of one or two survivors' voices that ultimately shape law reform. In the words of one witness:

> They need to understand better what a survivor is an expert at and what a survivor is not an expert at. Just because I had a lousy experience having my appendix out does not mean I should go in front of a hospital board and talk about what kind of knife should be used to make the incision. I can talk about the fact that I wasn't treated with respect, that nobody listened to me when I said the anesthetic hadn't taken effect yet. But in the gender-based violence world, it's like survivor voices trump all. And I think that's confusing for committee members who are not experts on this topic'
>
> – Informant 5, Witness, Canadian House of Commons Standing Committee on the Status of Women

Such criticisms must acknowledge the historical significance of women having the opportunity to testify, when in the 1990s such testimonies of "battering" began to emerge. Nonetheless, it was simultaneously when we first discovered that just because women's voices were becoming part of

[49] *Ibid.*, at 218.
[50] *Ibid.*, at 221.
[51] Hankivsky, 'Gender Mainstreaming in Canada and Australia: A Comparative Analysis', 27 *Policy and Society* (2008) 69, at 75.
[52] *Ibid.*

law reform, it did not necessarily mean that they were "heard by the listener or by society at large, or that they will be heard accurately".[53] The project of listening remains a challenge for parliamentary committees.

C. Making pre-legislative gendered scrutiny effective

> "Parliament determines in its democratic capacity, how many resources it will give us, and then we work within that…If you give a lot more resources, then maybe there's fewer resources for shelters, for women victims of violence, right? We work within the resource constraints that were provided by Parliament. And we do the best that we can within those constraints. So even though we don't have the depth of staffing that you might see, for example, in the United States at the Congressional Research Service…we have been able to marshal a lot of resources to provide the support needed."
>
> – Informant 8, Parliamentary Staffer, Canadian House of Commons Standing Committee on the Status of Women

Law's capacity to correct inequality remains a point of contention among legal scholars. While pioneers sought a place for women in the law many years ago,[54] to many, bringing a woman's standpoint to law remains an ongoing battle.[55] Law is yet to reach its optimum potential to advance the specific interests of women and needs constant revision and further debate.[56] We are warned that law is too "deaf to core concerns of feminism"[57] and are cautioned not to work within a broken system. Nonetheless, other scholars have sought to reimagine a place for women in legislative debates.[58] 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.[59] Today, scholars continue to reimagine a place for women in a diversity of legal domains[60] and parliamentary auditing offers an underexplored way to operationalise these theories and re-centre women in law.

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[53] Schneider, 'Hearing Women Not Being Heard: On Carol Gilligan's Getting Civilized and the Complexity of Voice Women and the Law: Essay', 63 *Fordham Law Review* (1994) 33, at 34.
[54] Boyd and Sheehy, 'Canadian Feminist Perspectives on Law', 13 *Journal of Law and Society* (1986) 283; C. Smart, *Feminism and the Power of Law*, (1 January 1989); Thornton, 'The Fragility of Feminist Reform', 50 *Alternative Law Journal* (2025) 3.
[55] R. Vijeyarasa, *Rewriting the Rules: Gender-Responsive Lawmaking for the Twenty-First Century*, (1st Edition, 2026), at 6, 7, 9.
[56] Graycar and Morgan, 'Law Reform: What's in It for Women Special Issue: Perspectives on Law Reform', 23 *Windsor Yearbook of Access to Justice* (2005) 393.
[57] Smart, *supra* note 55.
[58] Batagol and Vijeyarasa, 'Lighting the Spark: Reimagining the Statutory Landscape through the Feminist Legislation Project', in R. Vijeyarasa (ed.) *International Women's Rights Law and Gender Equality: Making the Law Work for Women*, (2021).
[59] Genovese, 'Goode v Goode: The Practice of Feminist Judgment in Family Law', in H. Douglas et al. (eds) *The Australian Feminist Judgments Project Righting and Re-Writing Law.*, (2014).
[60] Batagol and Vijeyarasa, *supra* note 59.

Yet much of the success of pre-legislative scrutiny depends on the individuals and actors that are needed to make it effective. The ACT Committee, disappointingly, declined to assess all but two of the fifteen of the bills referred to it, resolving not to undertake an inquiry. One bill, however, showed the strength of pre-legislative scrutiny to make visible gendered discrimination embedded in law. The *Long Service Leave (Portable Schemes) Amendment Bill* 2022 was referred to the ACT Committee in November 2022, with the Committees report released in January 2023. The Bill sought to extend access to portable long service leave, a scheme that lets you build up long service leave based on your total time working in an industry, rather than with a single employer, to the hairdressing, beauty, food and accommodation industries. In doing so, it sought to address a long-standing inequality in access to leave entitlements that disproportionately affected women working in fragmented, insecure and lower-paid sectors. The Bill was broadly gender-responsive in its intent, particularly by extending a scheme previously available in male-dominated construction industries to female-dominated sectors and by recognising that portable leave is especially important for workers who experience employment breaks linked to unpaid care responsibilities.

The ACT Committee supported passage of the Bill, recognising that "women are more likely to be affected by insecure work", "take extended breaks from the workplace in order to take on caring roles such as child-raising, and report more work/life balance conflicts than men", all of which "disproportionately impact women's access to long service leave".[61] The Committee was thoughtful too in its ability to reflect on how different women would experience the amendments, facilitating dissent centred on the potential adverse impacts on female-owned small businesses.[62] Although these disagreements were not substantively resolved in the final Act, which preserved the Bill's structure and limitations, pre-legislative scrutiny made visible competing gendered interests that might otherwise have remained absent from parliamentary debate. Its democratic contribution therefore lay not only in securing legislative change, but in widening the range of experiences and distributive consequences recognised within the law-making process.

D. Gendered composition

> "I think there should be, at least a minimum, for example of one man in every party to sit in this committee. Because I have the same concern that I had before joining. If you park the gender equality question into this specific committee, it will not necessarily have a huge influence on all the ministries."

[61] Legislative Assembly for the Australian Capital Territory Legislative Assembly for the Australian Capital Territory Standing Committee on Economy and Gender and Economic Equality Approved for publication Report 6 10th Assembly January 2023 Standing Committee on Economy and Gender and Economic Equality, *Inquiry into Long Service Leave (Portable Schemes) Amendment Bill 2022*, (January 2023), at 2.11.
[62] *Ibid.*, at 2.29-2.30.

– Informant 4, Committee member, Canadian House of Commons Standing Committee on the Status of Women

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. Such a design may also shift the work of gender equality off women's shoulders. The gender demographic of gender audit committees throughout their relatively short histories reflects similar patterns. Across all four committees, membership is confined almost entirely to women. It also raises the long-acknowledged problem of women being tasked with what risks being "busy-work", that keeps people, particularly women, busy with limited impact [63].

4. The way forward

The ACT Liquor (Night-Time Economy) Amendment Bill, with which this paper opened, is not an aberration. It is emblematic of a structural vulnerability that runs through each of the four systems examined here: the tendency for gendered scrutiny to be procedurally available but substantively contingent on political will, institutional gatekeeping and the willingness of individual committee members to insist that gender analysis is relevant to ostensibly "economic" or "neutral" reforms. The Bill's passage without gendered analysis, notwithstanding well-established evidence linking expanded alcohol availability to heightened risks of gender-based violence, illustrates the cost of treating gender scrutiny as discretionary rather than mandatory.

The comparative analysis reveals significant institutional variation but also recurring limitations. Tasmania's Joint Sessional Committee on Gender, Gender-based Violence and Equality demonstrates that a dedicated committee can adopt an expansive understanding of gender, encompassing issues including male suicide, LGBTQI healthcare access and women's homelessness. Its examination of the *Expungement of Historical Offences Amendment Bill 2024* also shows its capacity to make consequential recommendations. Yet the Bill's lapse at the end of the parliamentary session exposes the fragility of a sessional rather than standing committee. The rejection of the Committee's recommendations on the *Local Government Amendment (Code of Conduct) Bill 2022* further illustrates that recommendations without enforcement remain dependent on governmental receptivity.

In the ACT, scrutiny of the *Long Service Leave (Portable Schemes) Amendment Bill 2022* made visible structural inequalities embedded in law, particularly the exclusion of female-dominated sectors from portable leave schemes. Yet the Committee's decision not to inquire into thirteen of the fifteen bills referred to it raises serious questions about consistency and institutional commitment.

[63] Vijeyarasa, *supra* note 5, at 117.

Canada's Standing Committee on the Status of Women, supported by the GBA+ framework, benefits from longevity and an established gender-analysis infrastructure, but remains limited by party discipline and uneven expertise among committee members. Spain offers the most structurally embedded model through legislatively mandated gender impact reports, although mandatory assessment has not prevented formulaic compliance.

These findings support five institutional design recommendations for parliaments without a dedicated gender scrutiny mechanism. First, parliaments should establish a dedicated standing committee with a broad and mandatory scrutiny mandate. A Joint Standing Committee on Gender Equality and Inclusive Law-Making could scrutinise all government and private members' bills, including economic, fiscal, planning, environmental and regulatory legislation. The ACT experience demonstrates that discretionary referral permits scrutiny to be avoided precisely where gendered consequences are least visible.

Second, every bill should be accompanied by a gender impact statement prepared by the sponsoring department. Modelled on Spain's *memoria de impacto normativo*, but designed to avoid formulaic compliance, the statement should assess differential effects on women, men and gender-diverse people; consequences for unpaid care, economic participation and safety; and interaction with anti-discrimination obligations. The committee should be empowered to assess the statement's adequacy and require supplementary analysis. A standardised assessment framework grounded in international benchmarks, including CEDAW, would promote consistency, comparability and longitudinal evaluation.

Third, committee composition should be diverse and gender balanced. Across the jurisdictions examined, gender scrutiny remains conducted overwhelmingly by women, reproducing the assumption that gender equality is women's work. Membership should extend across the gender spectrum and, where possible, include parliamentarians with relevant expertise or lived experience of intersectional disadvantage.

Fourth, scrutiny processes must centre lived experience through meaningful participation. Civil society organisations, community groups and individuals should be able to contribute through oral testimony, written submissions and, where appropriate, confidential hearings. The Canadian experience highlights the need to avoid compressing diverse communities into a single hearing and to support the participation of culturally and racially diverse women, LGBTQI people and women with disabilities, rather than merely inviting it.

Finally, governments should be required to respond publicly to every committee recommendation within a fixed period. A "comply or explain" model requiring a response within 90 days would not guarantee acceptance but would make rejection transparent and establish a public record against which legislative performance could be assessed.

These measures are not technical additions to law-making but democratic safeguards. Properly mandated, resourced and institutionally embedded gender scrutiny can improve legislative quality, strengthen participatory legitimacy and expose consequences that might otherwise escape parliamentary attention. When scrutiny is discretionary, under-resourced or unenforceable, the result is not neutrality but the reproduction of inequality through ordinary legislative processes.