



# briefing paper



## NSW Parliamentary Research Service

### **Women in parliament**

### **Briefing Paper No 3/2018**

by Laura Ismay

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# Women in Parliament

by

Laura Ismay

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## CONTENTS

<b>SUMMARY</b> .....	<b>i</b>
<b>1. Introduction</b> .....	<b>4</b>
<b>2. What do the numbers say?</b> .....	<b>7</b>
2.1 Current levels of representation across Australia .....	7
2.2 NSW Parliament: a detailed snapshot.....	8
2.2.1 NSW Legislative Assembly.....	10
2.2.2 NSW Legislative Council .....	11
2.3 Political party representation in NSW .....	12
2.3.1 NSW Legislative Assembly.....	13
<b>3. Women in parliament: does it matter?</b> .....	<b>17</b>
3.1 The Australian experience.....	19
<b>4 What are political parties doing?</b> .....	<b>21</b>
4.1 Supply-side strategies .....	21
4.1.1 The Australian experience .....	22
4.2 Demand-side strategies .....	23
4.2.1 The Australian experience .....	24
4.2.2 Opposition to quotas.....	27
4.2.3 Do quotas work?.....	29
<b>5. What are parliaments doing?</b> .....	<b>32</b>
5.1 Children in the chamber .....	36
5.1.1 Issues and limits .....	36
5.1.2 NSW Parliament .....	39
5.1.3 Case study: Australian House of Representatives.....	41
5.2 Proxy voting .....	43
5.2.1 Issues and limits .....	43
5.2.2 NSW Parliament .....	44

5.2.3	Case study: United Kingdom House of Commons.....	45
5.3	Parental, adoption and surrogacy leave.....	46
5.3.1	Issues and limits.....	46
5.3.2	NSW Parliament.....	47
5.3.3	Case study: Danish Parliament.....	48
5.4	Family friendly hours.....	49
5.4.1	Issues and limits.....	49
5.4.2	NSW Parliament.....	49
5.4.3	Case study: Queensland Parliament.....	51
5.5	Childcare facilities.....	52
5.5.1	Issues and limits.....	52
5.5.2	NSW Parliament.....	53
5.5.3	Case study: Scottish Parliament.....	53
5.6	Other initiatives.....	54
5.6.1	Job sharing.....	54
5.6.2	Other financial support.....	57
<b>6.</b>	<b>Conclusion.....</b>	<b>59</b>

## SUMMARY

Across Australia, the representation of women across all parliaments averages 34% **[Section 2.1]**. In fact, only two Houses – the Legislative Assemblies of the Australian Capital Territory and Tasmania – have ever exceeded the marker of 50% of elected members being women. **[2.1]**.

In NSW, since Millicent Preston-Stanley was first elected to NSW Parliament in 1925, women’s combined representation across both houses has never surpassed 30% **[2.2]**. The current gender composition of the Legislative Assembly – at 29% female– places it eighth out of Australia’s nine Legislative Assemblies.<sup>1</sup> **[2.2.1]**. Meanwhile the NSW Legislative Council, whose electoral system has previously been recognised as favourable to women candidates<sup>2</sup>, currently has a composition of only 23.8% women – the lowest percentage of women in the upper house of any Australian bicameral parliaments. **[2.2.2]**

There appears to be a general consensus across the political spectrum that women’s underrepresentation needs to be addressed to ensure the ongoing legitimacy of the Australian political system **[3.1]**, as well as the survival of the modern political party.<sup>3</sup> **[3]** Moreover, it is argued that increasing women’s representation will have two key flow-on effects. On one hand, it may improve the status of “women’s interests” in political debate. At the same time, the “symbolic representation” of more women in politics has been recognised as “a sign [to other women] that women as a group do have a role to play in decision-making political institutions” **[3]**.

In an attempt to address low levels of women members in parliaments throughout the world, a number of domestic and international bodies have developed frameworks for increasing women’s representation. One of the most extensive and well-regarded frameworks - the Plan of Action for Gender-Sensitive Parliaments (the IPU Plan) – was developed in 2012 by the Inter-Parliamentary Union (IPU) **[1]**.

The IPU Plan is a seven-step checklist which is designed to give parliaments the tools they need to mainstream gender equality concerns throughout their legislative, oversight and administrative work. The ultimate aim of the IPU Plan is to develop a parliament that is “gender-sensitive”, that is; one that responds to

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<sup>1</sup> The figures in this publication are current as at 10 October 2018, as reported in the Commonwealth Parliamentary Library’s [“Composition of Australian parliaments by party and gender: a quick guide”](#). The figures do not take into account the results of the latest Federal by-election for the seat of Wentworth, in which Independent Kerryn Phelps was elected.

<sup>2</sup> McCann J, [Electoral quotas for women: an international overview](#), Commonwealth Parliamentary Library, 14 November 2013, P 9

<sup>3</sup> See Liberal MP Julia Banks’ statement to the House of Representatives where she said “[Women] represent half the population and so should a modern [Liberal party](#),” quoted in The Guardian, [“Julia Banks lashes “appalling” behaviour against women in parliament”](#), 13 September 2018. See also Howse E, [“Labor women have had enough and are speaking out for change”](#), *Sydney Morning Herald*, 11 November 2018

the needs and interests of both men and women. The IPU Plan defines a gender-sensitive parliament as one that:

- 1. Promotes and achieves equality in numbers of women and men across all of its bodies and internal structures.**
- 2. Develops a gender equality policy framework suited to its parliamentary context.**
- 3. Mainstreams gender equality throughout its parliamentary work.**
- 4. Fosters an internal culture that respects women's rights, promotes gender equality, and responds both to the realities of MPs' lives – those of men and women – and to their need to balance work and family responsibilities.**
- 5. Acknowledges and builds on the contribution made by its men members who pursue and advocate gender equality.**
- 6. Encourages political parties to take a proactive role in the promotion and achievement of gender equality.**
- 7. Equips its parliamentary staff with the capacity and resources to promote gender equality, actively encourages the recruitment and retention of women to senior positions, and ensures that gender equality is mainstreamed through the work of the parliamentary administration.**

One of the aims of a gender-sensitive parliament is to create a parliament that is more appealing to women. Ideally, this will not only improve the situation for women members already serving in the Houses but might also encourage more women to run for election. Given that the long hours and time spent away from home can have a particular effect on those responsible for young children and families – more often than not, women - parliamentary policies towards maternity leave [5.3] and childcare [5.5] may have a significant impact on these members.

Amendment of the Standing and Sessional Orders has also been recognised as a means by which parliaments can be made more appealing to women, particularly those who may be deterred by the institution's lack of "family friendliness". These changes include allowing the free movement of nursing children into the parliamentary chamber on sitting days [5.1], which parliaments such as the Commonwealth House of Representatives have allowed since 2008 [5.1.3]. More recently, parliaments such as the UK House of Commons have amended their Standing Orders to allow both male and female members caring for children to vote by proxy [5.2.3], whilst in Queensland, newly adopted Sessional Orders set defined finishing times for sitting days; a decision designed to "make parliament inclusive and enable more people to [join in]" [5.4.3].<sup>4</sup> The actions of these parliaments – whilst not perfect – serve as an indication of best practice in 2018 and provide a benchmark upon which the actions of NSW Parliament may be compared. The steps taken by NSW Parliament towards each

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<sup>4</sup> Jones K, [Queensland Parliamentary Debates](#), 15 February 2018, p 140



...  
of these benchmarks are examined in detail at [5.1.2], [5.2.2], [5.3.2], [5.4.2] and [5.5.2]).

Along with the parliamentary institution, the political party is recognised as the other key influence on the representation of women in parliament. Described as the “gatekeepers to political office”, political parties represent “the main delivery mechanism of change in a modern democracy like Australia”.<sup>5</sup> [4] The approach of these bodies towards women is therefore likely to have a large effect on their presence in parliament. Across the political spectrum, Australian political parties have employed one of two strategies to increase the number of women within their party membership, as well as those elected to parliament. [4]

The first are “supply-side” strategies. These strategies are designed to develop the skills of an individual and add more target group members to the pool of qualified candidates, whilst leaving the decision at the selection stage free. [4.1] In the Australian context, supply side strategies are usually enacted through a party’s dedicated women’s caucus. Supply side strategies are generally favoured by more conservative parties, as they leave the “norms of deservingness” such as merit and qualifications untouched [4].

The second type of strategy – “demand-side” strategies – create a demand for female senior leaders to fill nominated roles [4.2]. Of these strategies, globally, quotas are undoubtedly the most common. Quotas may be implemented by the parties themselves or enforced on parties by legislation. They may also be voluntary or mandatory. Despite their apparent efficacy [4.2.3], the use of quotas in the Australian context is limited, with no major political party adopting mandatory gender quotas [4.2.1]. Whilst the Labor Party has had a voluntary quota of 35% since 1994 (which increased to 40% in 2012, and to 50% in 2015) [4.2.1], both Coalition parties have steadfastly opposed their implementation based on the idea that gender quotas contradict the principle of merit. [4.2.2]

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<sup>5</sup> Reece N, [How Australia’s cartel-like political parties drag down democracy](#), *Sydney Morning Herald*, 9 August 2015.

## 1. INTRODUCTION

*The conditions under which Members of Parliament work are made by blokes, for blokes*

**The Honourable Virginia Chadwick, President of the NSW Legislative Council**

*There are barriers for women participating in the party, there are not enough senior campaign officials who are women... the mechanisms of the major parties are designed to essentially make it harder for women*

**Unnamed Member of the Western Australian Parliament, October 2018**

Australian parliaments have traditionally been male-dominated institutions. In the case of NSW, it was not until 1925 – over 100 years after the establishment of the Legislative Council in 1824 – that Millicent Preston-Stanley was elected as NSW Parliament’s first female MP. Since this date, 122 women have been elected to NSW Parliament and the State has seen women in all senior elected roles, including Premier, Treasurer, Attorney-General, Speaker and President.<sup>6</sup>

Despite an increase in the representation of women in NSW Parliament, the total percentage of female MPs has never surpassed 30%. Whilst 2015 saw 28 women elected to the Legislative Assembly, its current composition of 29% women places it eighth out of Australia’s 9 parliaments. The NSW Legislative Council, whose electoral system has previously been recognised as favourable to women candidates,<sup>7</sup> currently has 23.8% women – the lowest percentage of women in any Australian bicameral parliament.<sup>8</sup>

These low levels of female representation have led to public expressions of concern from within the political sphere. Following the 2015 General Election, then-NSW Treasurer Gladys Berejiklian stated that the low levels of NSW Coalition MPs needed to be addressed “as a matter of urgency”.<sup>9</sup> When similarly low levels of female Coalition MPs were elected at the 2016 Federal Election, the

<sup>6</sup> This figure is based on the number of individuals elected and only counts women members who have been elected to both the Legislative Assembly and Legislative Council once.

<sup>7</sup> See for example Marian Sawyer, 2000, “Parliamentary representation of women: from discourses of justice to strategies of accountability”, *International Political Science Review*, 21(4):361-380; Richard Matland, 2005, “Enhancing women’s political representation: Legislative recruitment and electoral systems” in Julie Ballington and Azza Karam (eds) *Women in Parliament: Beyond Numbers, A Revised Edition*, International IDEA, Stockholm, Sweden.

<sup>8</sup> Hough A, [Composition of Australian parliaments by party and gender: a quick guide](#), *Commonwealth Parliamentary Library*, 10 October 2018

<sup>9</sup> Dole N, [Women should make up half of all members of Parliament, NSW Treasurer Gladys Berejiklian says](#), *ABC News*, 18 August 2015

Women's Electoral Lobby described the results as "...particularly shocking and nowhere near good enough from a party that says it is committed to ending gender-inequality that leads to domestic violence."<sup>10</sup>

Low levels of women's representation are not unique to NSW. Across Australia, only the ACT and Tasmania have surpassed the 50% threshold, with their Legislative Assemblies currently composed of 56% and 52% women respectively. In recognition of this fact, a number of domestic and international bodies have developed frameworks for increasing women's representation.

One of the most extensive and well-regarded frameworks - the [Plan of Action for Gender-Sensitive Parliaments](#) (the IPU Plan) – was developed in 2012 by the [Inter-Parliamentary Union](#) (IPU). Following a global review of women in parliament in 2008,<sup>11</sup> the IPU found that women are overwhelmingly the main drivers of progress in gender equality in parliament.<sup>12</sup> The IPU refers to women members' role in changing parliamentary language and etiquette, as well as sitting times as examples of women-driven changes to the parliamentary structure.<sup>13</sup>

Despite the critical role of women members in implementing changes to Parliament, the IPU recognises that parliaments as institutions also have responsibilities in this area. This sentiment is strongly echoed in Professor Sarah Child's report for the UK House of Commons, titled "The Good Parliament". Professor Childs argues:

Parliament's diversity insensitivities should not be thought of as the responsibility of those individuals negatively affected by them, or those MPs prepared to expend personal and political capital on them. Nor can reform be handed over solely to the political parties; their interests might at times conflict with the House as an institution. The commitment...is for the House to sign up to as an institution.<sup>14</sup>

In recognition of the role of institutions in improving gender equality, the IPU Plan is designed to give parliaments the tools they need to mainstream gender equality concerns throughout their legislative, oversight and administrative work. The ultimate aim of the IPU Plan is to develop a parliament that is "gender-sensitive"; that is, one that responds to the needs and interests of both men and women. It identifies a gender-sensitive parliament as one that:

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<sup>10</sup> Aston H, [House of Unrepresentatives: female Coalition MPs at lowest level in two decades](#), *Sydney Morning Herald*, 13 July 2016

<sup>11</sup> Ballington J, [Equality in Politics: A Survey of Men and Women in Parliaments](#), *Inter-Parliamentary Union*, 2008

<sup>12</sup> Ballington J, [Equality in Politics: A Survey of Men and Women in Parliaments](#), *Inter-Parliamentary Union*, 2008, p 2

<sup>13</sup> Ballington J, [Equality in Politics: A Survey of Men and Women in Parliaments](#), *Inter-Parliamentary Union*, 2008, p 39, 71

<sup>14</sup> Childs S, [The Good Parliament](#), July 2016, pg 10

- 1. Promotes and achieves equality in numbers of women and men across all of its bodies and internal structures.**
- 2. Develops a gender equality policy framework suited to its parliamentary context.**
- 3. Mainstreams gender equality throughout its parliamentary work.**
- 4. Fosters an internal culture that respects women's rights, promotes gender equality, and responds both to the realities of MPs' lives – those of men and women – and to their need to balance work and family responsibilities.**
- 5. Acknowledges and builds on the contribution made by its men members who pursue and advocate gender equality.**
- 6. Encourages political parties to take a proactive role in the promotion and achievement of gender equality.**
- 7. Equips its parliamentary staff with the capacity and resources to promote gender equality, actively encourages the recruitment and retention of women to senior positions, and ensures that gender equality is mainstreamed through the work of the parliamentary administration.**

This paper aims to provide an overview of the current situation for women in parliament in Australia, and specifically, in NSW. It builds on the discussion of issues raised in the 2003 NSW Parliamentary Research Publication "Women in Parliament: The Current Situation"<sup>15</sup> such as barriers to women's representation, the use of quotas and the responses of political parties.

To provide context on the current situation, it starts with a statistical snapshot of women's representation in Australia, where the national average across all parliaments sits at 33.9% female representation. Next, the paper asks: does the number of women in parliament matter? This discussion explores ideas around representation – both symbolic and substantive.

The paper also examines the role of two key institutions in improving women's representation: the political party and the parliament itself. For political parties, it looks at both supply and demand strategies and their success. For parliament, it explores the progress of the NSW Parliament in adapting the institution to better suit its women members, particularly those with children. Throughout each of these analyses, it outlines a "best practice" case study as a comparator and potential source of future inspiration.

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<sup>15</sup> Drabsch T, [Women in Parliament: The Current Situation](#), NSW Parliamentary Research Service, September 2003

## 2. WHAT DO THE NUMBERS SAY?

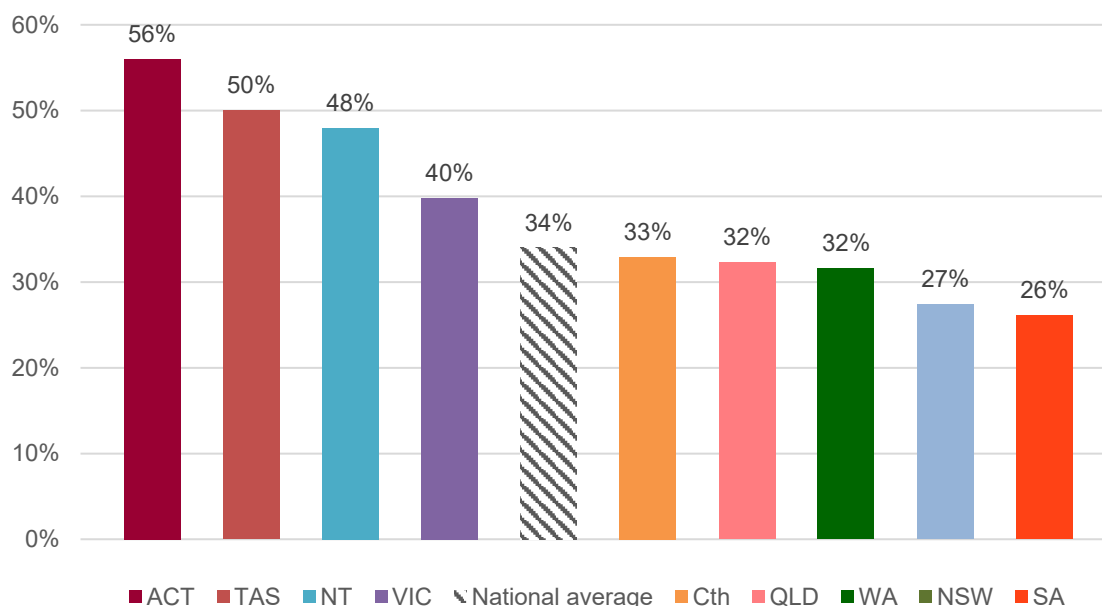
*It is apparent that women still face barriers in accessing politics, and increasing the numbers of women in decision-making bodies is just the first step in ensuring that the political agenda is decided jointly by men and women.*

### The Inter-Parliamentary Union, Equality in politics

#### 2.1 Current levels of representation across Australia

As at 10 October 2018, women made up an average of 34% of all members across Australia's nine parliaments.<sup>16</sup> The proportion of women in each of these nine parliaments, including the national average, is shown in Figure 1.

**Figure 1: Proportion of women members in each Australian parliament, as at 10 October 2018**



The parliaments of Queensland, the Australian Capital Territory (ACT) and the Northern Territory (NT) are unicameral; that is, they only have one House. All other parliaments in Australia are bicameral, having both a Lower and Upper House. In total, Australia's nine parliaments are composed of fifteen Houses. The current level of women's representation in Australian Parliaments is shown in Table 1:

<sup>16</sup> This figure represents the total number of women in all Australian parliaments as a percentage of the total number of elected members in all Australian parliaments.

**Table 1: Number of women and overall percentage composition per House, as at 10 October 2018**

	Lower House		Upper House	
	Number of women	Percentage (%)	Number of women	Percentage (%)
<b>Commonwealth</b>	44	29.5%	30	39.5%
<b>NSW</b>	27	29.0%	10	23.8%
<b>VIC</b>	33	37.5%	18	45.0%
<b>QLD</b>	30	32.3%		
<b>WA</b>	19	32.2%	11	30.6%
<b>SA</b>	11	23.4%	7	31.8%
<b>TAS</b>	13	52.0%	7	46.7%
<b>ACT</b>	14	56.0%		
<b>NT</b>	12	48.0%		

Tasmania's Legislative Assembly and the ACT's Legislative Assembly are the only Houses that where women account for more than 50% of the elected members. All other Houses remain below 50% - with South Australia's Legislative Assembly and NSW' Legislative Council the only Houses with less than 25% female representation.

## 2.2 NSW Parliament: a detailed snapshot

The NSW Parliament is a bicameral parliament of 135 members, composed of a 93-member Legislative Assembly and 42 member Legislative Council. In the NSW Legislative Assembly one Member represents a single electoral district for a term of 4 years. Members are elected by the optional preferential voting system, whereby voters are required to rank candidates in order of preference, but need only indicate at least 1 single preference for their vote to count. Legislative Council Members represent NSW as a whole rather than a particular electoral district and are elected for a term of 8 years. The proportional representation voting system is used, which aims to allocate seats in the Legislative Council in proportion to the votes cast, once a certain quota has been reached.

The first woman was elected to NSW Parliament in 1925, and 122 women have been elected to NSW Parliament in the 93 years since. Throughout this time, women's combined representation across NSW Parliament as a whole has never surpassed 30%. A snapshot of this representation is provided in Figure 2, which shows the changing proportion of women in both Houses of NSW Parliament from 1994 to the present. The NSW proportion is compared with the average proportion of women in both Houses of all Australian parliaments over this same time period.

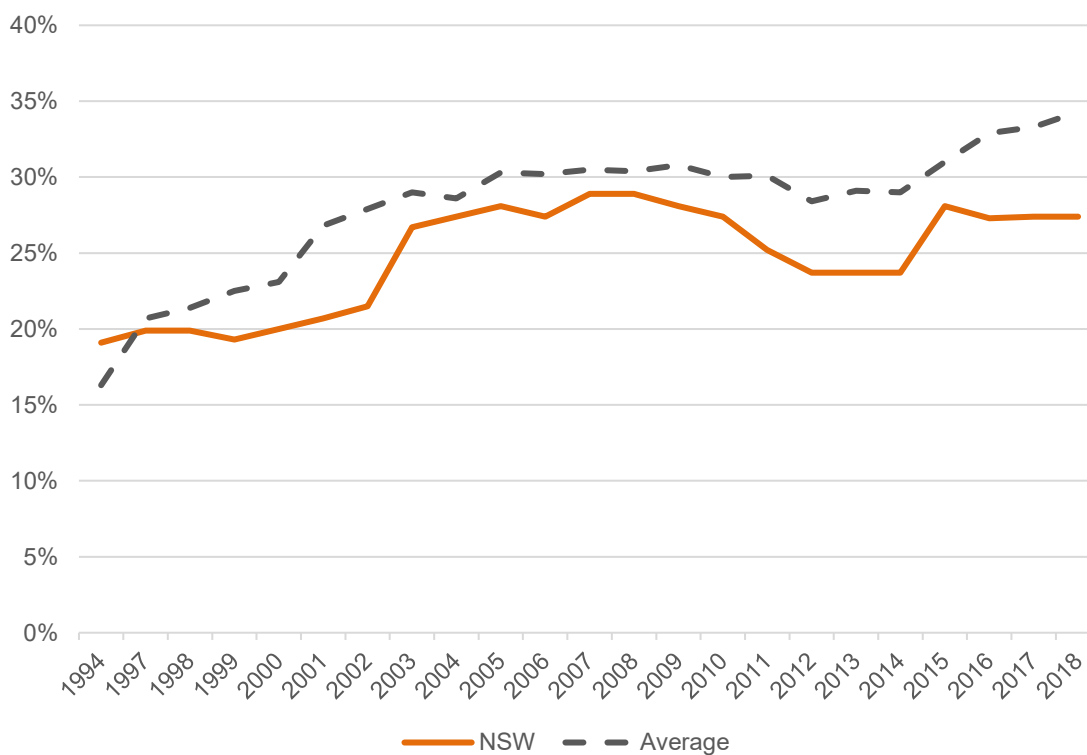
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### Women in parliament

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As the figure shows, the proportion of women in the NSW Parliament has remained below the national average since 1997. Whilst levels of women's representation have generally increased over the last 24 years, they have stagnated at just over 25% in recent years.

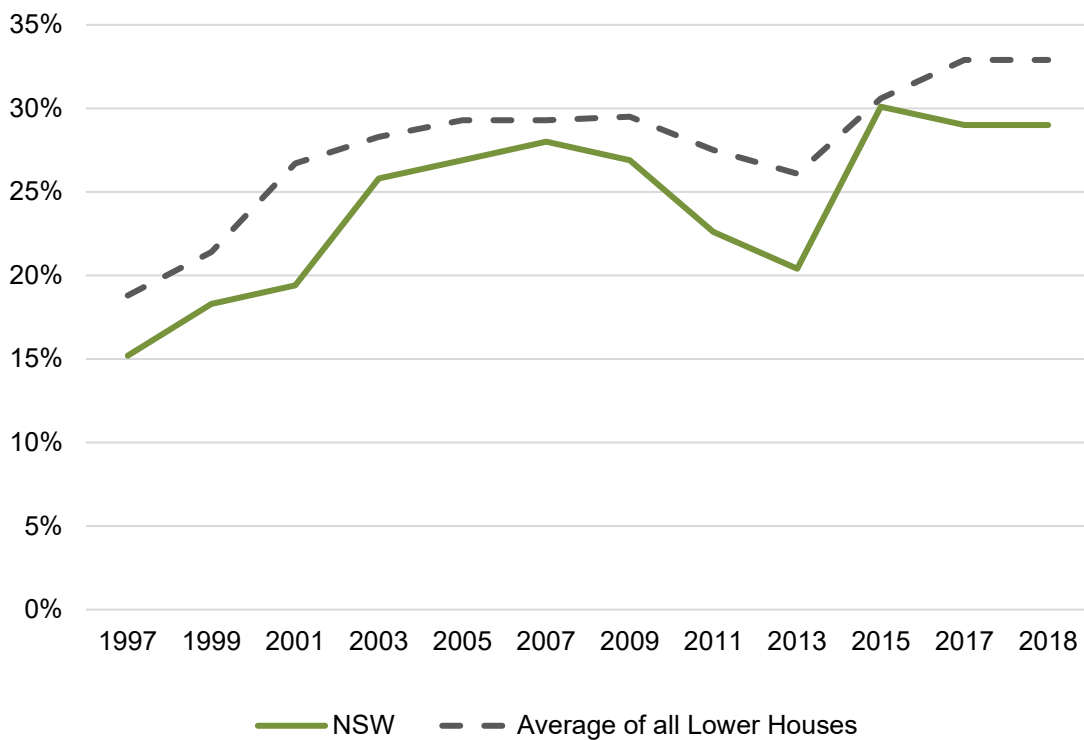
**Figure 2: NSW Parliament (both Houses) compared with national average of all parliaments (both Houses)**



### 2.2.1 NSW Legislative Assembly

Figure 3 shows the proportion of women in the NSW Legislative Assembly, as compared with the national average of women across all lower houses in Australia, between 1994 and the present. As the figure shows, the proportion of women in the NSW Legislative Assembly has never exceeded the national average of lower houses.

**Figure 3: NSW Legislative Assembly compared with national average of all parliaments (across Lower Houses)**

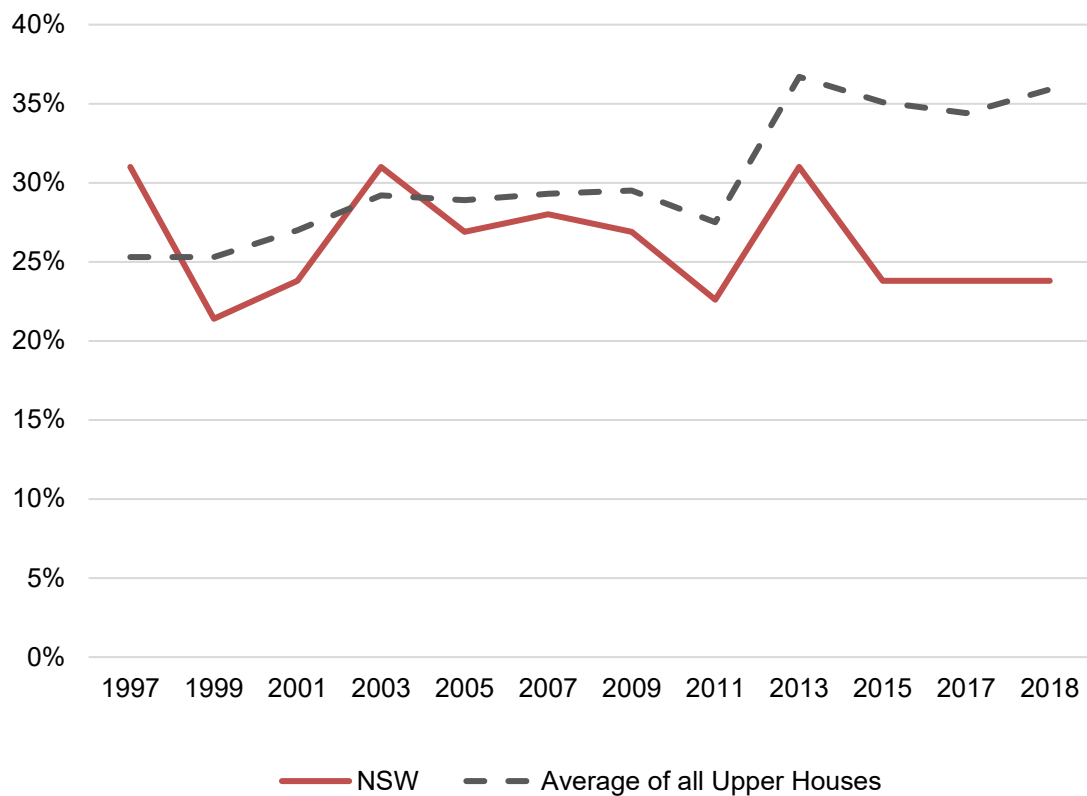




### 2.2.2 NSW Legislative Council

Figure 5 shows the proportion of women in the NSW Legislative Council, as compared with the national average of women in all upper houses in Australia, between 1994 and the present. As the figure shows, the proportion of women in the NSW Legislative Council has remained below the national average of upper houses since 2004.

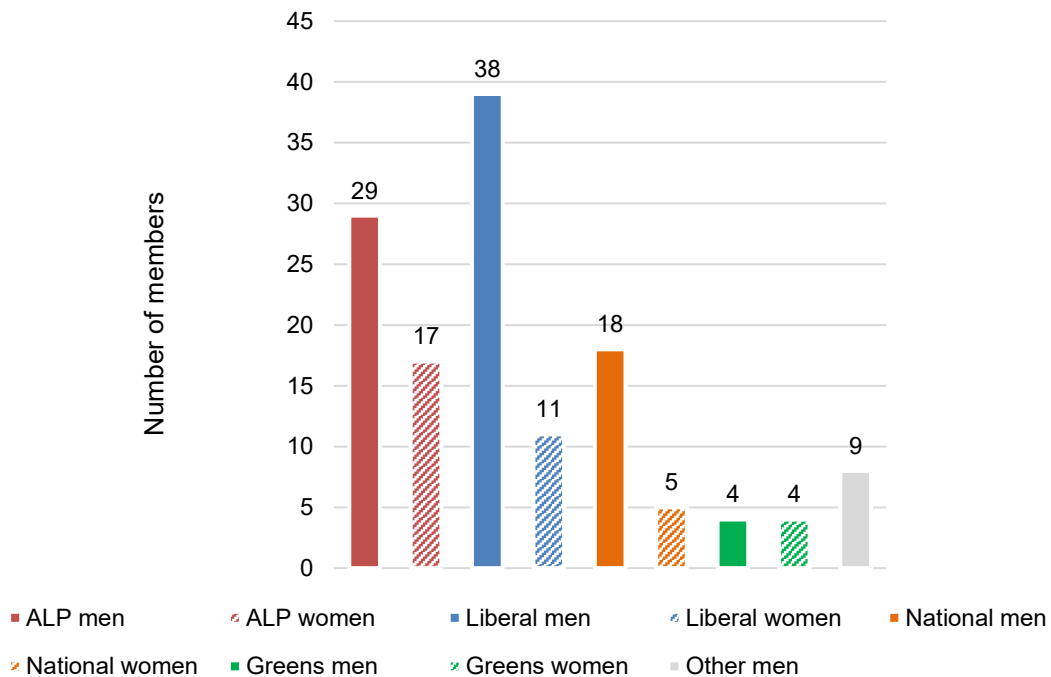
**Figure 5: NSW Legislative Council compared with national average (across Upper Houses)**



### 2.3 Political party representation in NSW

Within the NSW Parliament, the levels of women's representation vary significantly across the political parties. Figure 6 provides a snapshot of the breakdown of party affiliation and genders across the entire NSW Parliament. Of all the women elected to NSW Parliament, Figure 6 shows that the NSW Greens have the largest percentage of members who are women (50%), followed by the ALP (37%), Liberal Party (22%) and The Nationals (22%). Of the 9 members from "Other" parties elected to NSW Parliament, none are women.

**Figure 6: Party and gender of members elected to NSW Parliament**



Political party	Male	Female	Total number of MPs from party	Percentage of party's MPs that are women (%)
<b>ALP</b>	29	17	46	37
<b>Liberal</b>	38	11	49	22
<b>National</b>	18	5	23	22
<b>Green</b>	4	4	8	50
<b>Other<sup>17</sup></b>	9	0	9	0

<sup>17</sup> Other refers to three Independent members and one member of the Shooters, Fishers and Farmers party in the Legislative Assembly and two members of the Shooters, Fishers and Farmers party, two Christian Democrat members and one member of the Animal Justice Party in the Legislative Council.

### 2.3.1 NSW Legislative Assembly

Table 2 shows the gender composition of political parties represented in the NSW Legislative Assembly, as at 10 October 2018. In the Legislative Assembly, 41% of ALP members are women; almost double that of the Liberal party (22%). As shown in Table 2, the Greens are the only party in which women make up more than 50% of elected members, with 2 of the 3 Greens members being women (Jenny Leong and Tamara Smith).

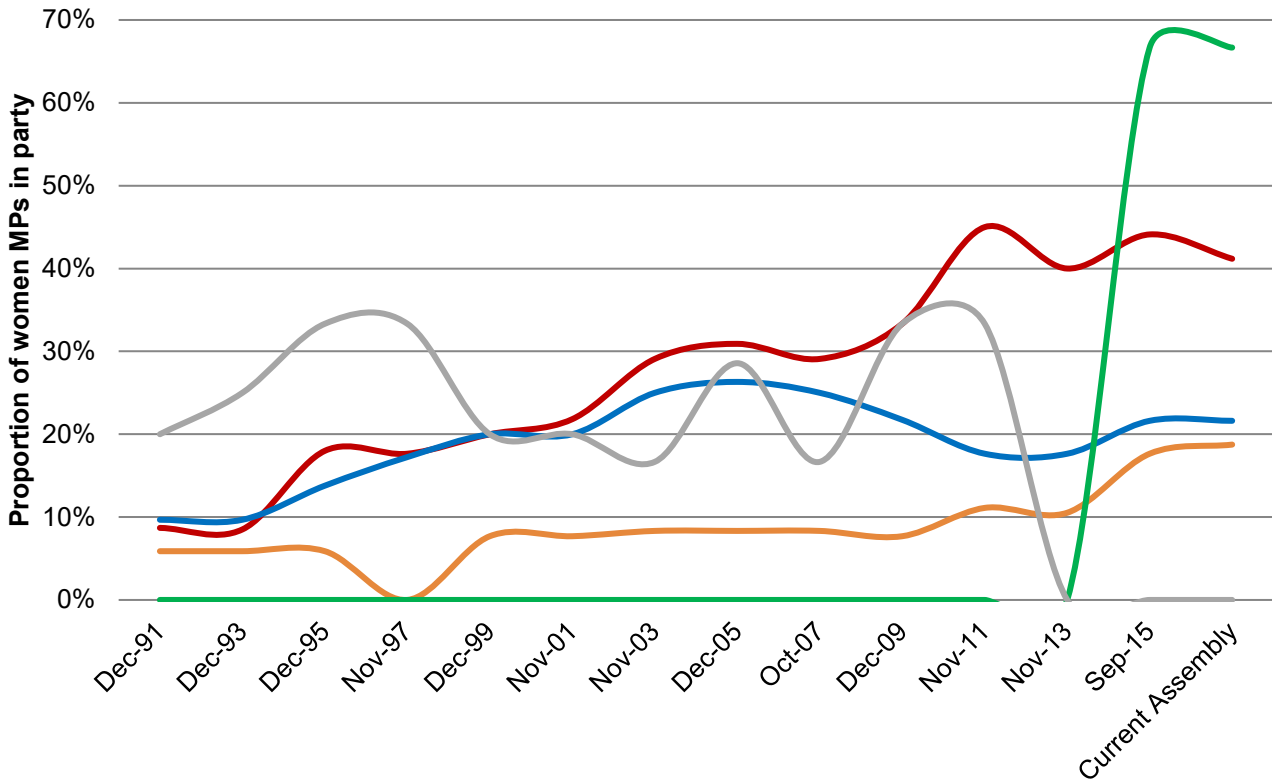
**Table 2: Composition of NSW Legislative Assembly by gender and party as at 10 October 2018**

Political party	Male	Female	Total number of MPs	Percentage of party's elected MPs that are women (%)
<b>ALP</b>	20	14	34	41
<b>Liberal</b>	28	8	37	22
<b>National</b>	13	3	16	19
<b>Green</b>	1	2	3	67
<b>Other<sup>18</sup></b>	4	0	4	0

The proportion of women representing each political party in the Legislative Assembly has changed significantly over the past 25 years. For example, whilst women now make up 41% of all Labor members in the Legislative Assembly, only 3 Labor women were elected at the 1991 NSW State Election, meaning women composed only 7% of the elected NSW Labor LA Members. The changing proportion of women representing each political party is shown in Figure 7.

<sup>18</sup> Other refers to three Independent members and one member of the Shooters, Fishers and Farmers party.

**Figure 7: Proportion of women MPs in party, Legislative Assembly (1991-2018)**



### 2.3.2 NSW Legislative Council

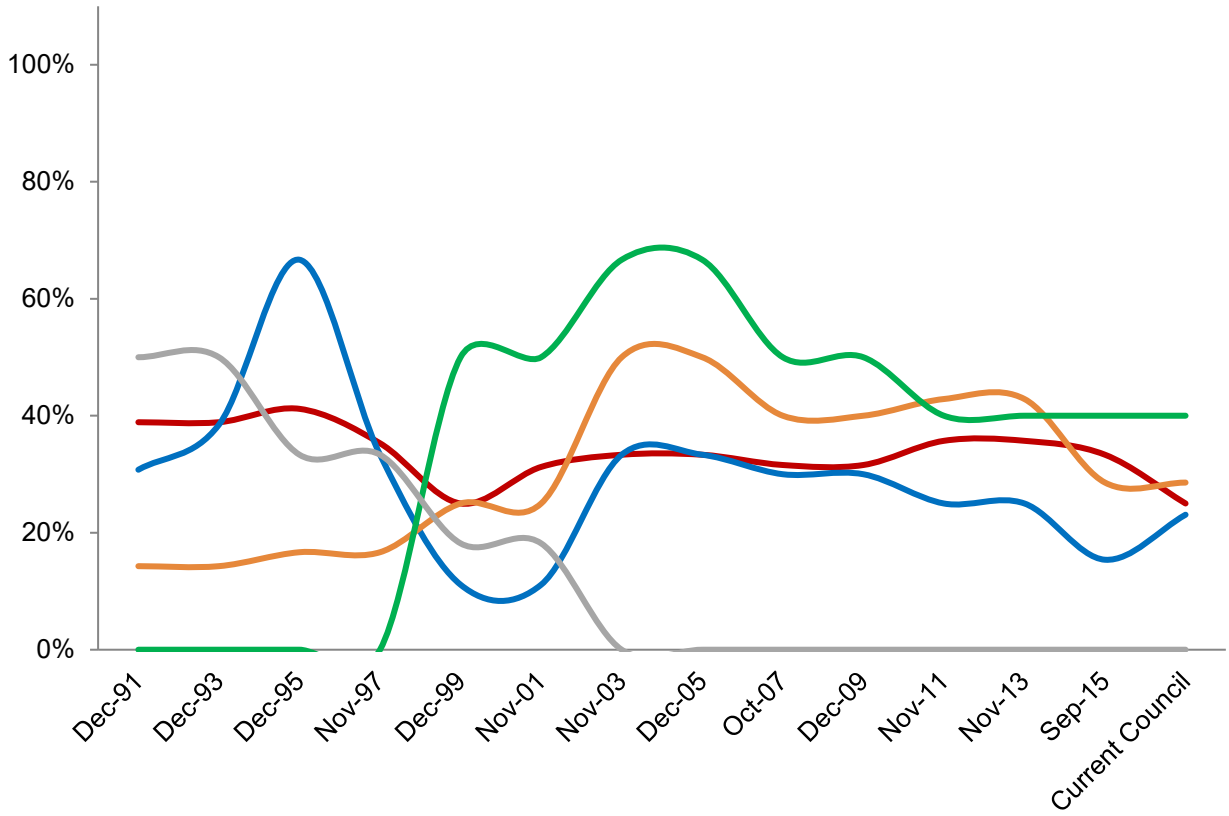
The representation of women in the Legislative Council is generally more evenly distributed across the political parties, with no party's representatives currently composed of more than 50% women, as shown in Table 3. However, like the Legislative Assembly, the composition of the Legislative Council has changed significantly over the past 25 years, as shown in Figure 8.

**Table 3: Composition of NSW Legislative Assembly by gender and party as at 10 October 2018**

Political party	Male	Female	Total	Percentage of women members (%)
<b>ALP</b>	9	3	12	25
<b>Liberal</b>	10	3	13	23
<b>National</b>	5	2	7	29
<b>Green</b>	3	2	5	40
<b>Other<sup>19</sup></b>	5	0	5	0

<sup>19</sup> Other refers to two members of the Shooters, Fishers and Farmers party, two Christian Democrat members and one member of the Animal Justice Party.

**Figure 8: Proportion of women MPs in party, Legislative Council (1991 2018).**



### 3. WOMEN IN PARLIAMENT: DOES IT MATTER?

*Modern parliaments are those in which citizens recognise themselves and find answers to questions and aspirations*

**Anders B Johnsson**  
**Secretary General, International Parliamentary Union**

The need for parliament to adequately represent its constituents is a long-standing tenet of representative democracy. In the January-March 2018 issue of *The Political Quarterly* Dr Peter Allen and Professor David Cutts wrote:<sup>20</sup>

The continued viability of representative democracy as a system of government is contingent on sufficient numbers of citizens putting themselves forward as candidates for elected political office. More than this, many have argued that beyond the sheer number of citizens it is also desirable, indeed necessary, that candidates possess a range of demographic and socioeconomic characteristics within their ranks.

In general, there are three main arguments for increasing the number of women in parliaments.<sup>21</sup> One view is that this increase may result in an equivalent increase in the representation of “women’s interests”<sup>22</sup>. Many scholars argue that women are better placed to represent women’s interests but this is an area of contention<sup>23</sup>. On this point, Elaine Thompson, former Associate Professor of the School of Politics and International Relations at the University of New South Wales states:<sup>24</sup>

<sup>20</sup> Allen P and Cutts D, An Analysis of Political Ambition in Britain, *The Political Quarterly*, 2018, 89(1), p 73.

<sup>21</sup> Sawyer M, ‘The Representation of Women in Australia: Meaning and Make-Believe’, *Parliamentary Affairs*, 55(1), January 2002, p 5.

<sup>22</sup> Allen P and Cutts D, ‘Exploring sex differences in attitudes towards the descriptive and substantive representation of women’, *The British Journal of Politics and International Relations*, 2016, Vol. 18(4) 912–929

<sup>23</sup> According to Celis “The core assumption is that “numbers matter”: an increase in women’s descriptive representation in parliaments will generally—even automatically—translate into an increase in [the representation of women’s interests]’. However, a number of scholars stress that there is not a simple link between the number of women in a parliament and the level of attention given to ‘women’s issues’. Sawyer has emphasised the distinction between ‘standing for’ and ‘acting for’, highlighting that the presence of women can serve as an alibi for policies that are not ‘women-friendly’. Furthermore, in Australia, party allegiance may generally be of greater relevance than gender as political parties and tight party discipline dominate the Australian political system. See Sawyer M, “When women support women...’ EMILY’s List and the substantive representation of women in Australia’, Paper presented to the Australasian Political Studies Association Conference, University of Adelaide, 29 September to 1 October 2004, p 2; Celis K and Erzeel S, The Complementarity Advantage: Parties Representativeness and Newcomers’ Access to Power, *Parliamentary Affairs*, 2017, 70, p 45.

<sup>24</sup> Sawyer M and Mishkin S, [POP 34 – Representation and Institutional Change : 50 Years of Proportional Representation in the Senate](#), Papers on Parliament No. 34

Twenty-five years of research into discrimination has shown, unambiguously, that men in positions of power do not share the world views and values of minorities. In the arena of elected politics, there has been a rejection of such a paternalistic version of representation and a commitment that the elected representatives in both houses of parliament should reasonably reflect the population in terms of ethnicity, race and gender: that the parliament should be a microcosm in gender, race and ethnicity of the larger Australian population.

The second argument, as articulated by Allen and Cutts, is that “a descriptive increase is desirable regardless of any resultant impact on [the representation of women’s interests]”.<sup>25</sup> This approach focuses on the importance of the wider benefits of the “symbolic representation” of having more women in politics. Professor Jane Mansbridge from the Harvard Kennedy School describes these benefits as:<sup>26</sup>

...[Women’s] increased belief in their own ability to rule and participate in politics, as well as the increased legitimation of the political institution in question in the eyes of the traditionally under-represented group...women are deemed likely to see a descriptive increase in women in politics as a sign that women as a group do have a role to play in decision-making political institutions, and to see the decisions emanating from those institutions as more legitimate as a result of women’s increased presence in them.

Whilst beyond the scope of this paper, it is important to note that this second argument has been expanded by some to argue that a political party’s continued legitimacy depends on better representation of all minorities, not just women. Professor Anne Phillips has said on a number of occasions since 1999:<sup>27</sup>

In contrast to former conceptions of equality that were about erasing differences, political equality today is very much about the acknowledgement of difference. This shift results in an increased sensitivity among voters for who the representatives are and how they look like. Hence it is electorally beneficial for parties to present socio demographically diverse candidates, and not doing so could even cost them voter support and a weak position in inter-party competition.

Finally, the ‘justice’ argument focuses on the provision of an equal opportunity for both sexes to participate in politics. A number of international conventions and instruments emphasise the importance of women participating in public life and the need to facilitate access to the political system. For example, the Universal Declaration of Human Rights, the International Covenant on Civil and Political

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December 1999

<sup>25</sup> Allen P and Cutts D, Exploring sex differences in attitudes towards the descriptive and substantive representation of women, *The British Journal of Politics and International Relations*, 2016, Vol. 18(4) 912–929

<sup>26</sup> Mansbridge J, Should blacks represent blacks and women represent women? A contingent ‘yes’, *The Journal of Politics*, 1999, 61(3): 628–657.

<sup>27</sup> Celis K and Erzeel S, The Complementarity Advantage: Parties Representativeness and Newcomers’ Access to Power, *Parliamentary Affairs*, 2017, 70, p 45.



Rights, the Convention on the Political Rights of Women, the Vienna Declaration and the Beijing Declaration and Platform for Action contain sections supporting the right of women to participate in politics.<sup>28</sup>

Article 7 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) provides:

State parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) to participate in non-government organisations and associations concerned with the public and political life of the country.

Similarly, article 25 of the International Convention on Civil and Political Rights states:

Every citizen shall have the right and opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) to have access, on general terms of equality, to public service in his country.

Therefore, the right of women to participate in the political life of their country is an important right repeated throughout a number of conventions. However, the right to stand for election has not always translated to actual participation, as numerous other barriers exist.

### **3.1 The Australian experience**

There appears to be an agreement across the political spectrum that women's underrepresentation needs to be addressed to ensure the legitimacy of the Australian political system, as well as a party's survival within it. In reference to

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<sup>28</sup> United Nations. Division for the Advancement of Women, n 25, para 4.

the Liberal party, Nick Cater and Nicolle Flint of the Menzies Research Centre stated:<sup>29</sup>

...the gender imbalance must be addressed as a matter of vital importance and change must come from the grass roots up. The imbalance in the parliamentary party room cannot be corrected without addressing the imbalance in the broader party membership.

Analysis of recent elections suggests that parties with a better balance of men and women have greater electoral appeal. Until 2001 the Liberal Party was the party favoured by female voters. Since 2001 the Liberals' support among women relative to men has waned, particularly among younger voters. In a media-driven age, politics is, in essence, a retail-facing business. Appearance and presentation matter. Retaining and improving the Liberal Party's retail appeal means presenting a range of male and female candidates.

Similarly, Jenny McAllister of the Chifley Research Centre stated that the Labor party needed:

...new members... new leaders, and ... a new model of local campaigning. Specifically, as we plan to reach Bill Shorten's target for 100,000 new members,<sup>30</sup> we should ensure that 50% of the new members we recruit are women. We'll need to train differently and more frequently, and our training should focus on effective leadership, recognising that women's experiences and styles bring great value to our organisation.<sup>31</sup>

Other parties including the NSW Nationals have recognised that equal representation of women was essential to "ensur[ing] the long-term and fiercely independent future of the NSW Nationals",<sup>32</sup> whilst the NSW Greens' Policy for Women notes:

Women are still poorly represented in Parliament — only 30 per cent of federal members are women. The Greens are actively working to strengthen our democracy by increasing representation of women at all levels of government.<sup>33</sup>

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<sup>29</sup> Cater N and Flint N, [Gender and politics: 2017 update](#), Menzies Research Centre Discussion Paper, March 2017, p 2.

<sup>30</sup> On April 27 2014 Leader of the Australian Labor Party Bill Shorten [announced](#) proposed party reforms, including his aim for party membership to grow to 100000.

<sup>31</sup> McAllister J, [Women's leadership is essential to Labor's renewal](#), speech presented at *National Labor Women's Conference*, Canberra, November 2014.

<sup>32</sup> Coultan M, [Nationals on recruiting drive for more women in parliament](#), *The Australian*, 19 April 2016.

<sup>33</sup> NSW Greens, [Policy on Women](#)

## 4 WHAT ARE POLITICAL PARTIES DOING?

*Political parties are key gatekeepers to political office. There is a great deal more that the parties could and should be doing to ensure that they select more diverse candidates.*

**Professor Sarah Childs, author of *The Good Parliament***

Political parties are the main form of political representation in Australia today, at both the State and Federal level. Since 1910, Australia has generally had majority governments under which either the Australian Labor Party (ALP) or a coalition of the Liberal and National parties has held office.

Nicholas Reece, former Victorian Secretary of the ALP referred to political parties as “*the main delivery mechanism of change in a modern democracy like Australia*”.<sup>34</sup> The approaches taken by political parties to increasing women’s representation are therefore likely to have a significant effect on their involvement in politics.

There is significant variation in the methods employed by Australian political parties to increase the number of female members and elected representatives. These include both supply and demand-side strategies, which may be used in isolation or in combination with each other. It is also important to recognise ongoing cultural factors that may influence the approach of a party to increasing its female representation, such as party ideology and level of centralisation.

### 4.1 Supply-side strategies

Political scientists note that political parties in many countries – including those from the conservative side in Australia<sup>35</sup> – have historically shown a preference for *supply-side* or *opportunity enhancement* strategies to increase women’s representation in parliament.<sup>36</sup> According to a recent American study, this is in part because supply-side strategies are seen as less prescriptive. Supply-side strategies are designed to develop the skills of an individual and add more target group members to the pool of qualified candidates, whilst leaving the decision at the selection stage free.<sup>37</sup> It has been suggested that this lack of prescription may

<sup>34</sup> Reece N, [How Australia’s cartel-like political parties drag down democracy](#), *Sydney Morning Herald*, 9 August 2015.

<sup>35</sup> However note that Resendez, M states that Australia in general has shown a tendency to avoid mandated gender quotas. See Resendez M (2002). The stigmatizing effect of affirmative action: An examination of moderating variables. *Journal of Applied Social Psychology*, 32, p 185–206.

<sup>36</sup> Harrison D et al, [Understanding attitudes toward affirmative action programs in employment: Summary and meta-analysis of 35 years of research](#), *Journal of Applied Psychology*, 2006, 91, p 1013–1036.

<sup>37</sup> Harrison D et al, [Understanding attitudes toward affirmative action programs in employment: Summary and meta-analysis of 35 years of research](#), *Journal of Applied Psychology*, 2006, 91,

make them more appealing to political parties, because they leave the “norms of deservingness” such as merit and qualifications untouched. Demand-side strategies are designed to actively affect the decision making process, requiring that certain demographics be taken into consideration.

According to Dr Victor Sojo and Dr Melissa Wheeler of the Centre for Ethical Leadership at the University of Melbourne, supply-side strategies are premised on the idea that women do not fully participate in politics because they lack the skill, confidence, motivation or encouragement to do so.<sup>38</sup> Whilst this assumption may appear overly simplistic, a recent study has shown that verbal encouragement of potential candidates by sitting MPs and political party officials is highly significant in whether or not this candidate may choose to run.<sup>39</sup> On this point, the authors of the study note that “receiving a suggestion from others, particularly from people already involved in politics, may help crystallise even the slightest notion of running in the mind of the candidate”.<sup>40</sup> Importantly, the study distinguishes between the effect on male and female candidates, finding that for men, having a sitting MP suggest running has the most influence on them making a positive decision regarding considering running for parliament. Women, on the other hand, are shown to be more influenced by encouragement from both party officials, as well as their friends and family.<sup>41</sup>

At the more formal end of the spectrum, mentoring, targeted development and networking are all key examples of initiatives that encourage women to run as candidates. In practice, these initiatives are aimed at developing politically-essential skills and increasing the supply of “job-ready” women for senior leadership roles. However, Dr Sojo and Dr Wheeler question the logic of these strategies, noting that they have failed to produce acceptable growth in the proportion of women in senior leadership roles.<sup>42</sup>

#### 4.1.1 The Australian experience

All three major political parties have a women’s caucus for female party members. Whilst women’s caucuses may fulfil a variety of roles – such as providing a platform for the development of policies specific to women – they may also provide mentoring opportunities for newly elected members or outreach opportunities to encourage women to stand as candidates.

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p 1013–1036.

<sup>38</sup> Sojo V and Wheeler M, [You might hate gender quotas, but they work](#), Crikey, 12 July 2016.

<sup>39</sup> Allen P, Gendered Candidate Emergence in Britain: Why are More Women Councillors Not Becoming MPs? *Politics*, 2013, Vol 33(3), p 152.

<sup>40</sup> Allen P, Gendered Candidate Emergence in Britain: Why are More Women Councillors Not Becoming MPs? *Politics*, 2013, Vol 33(3),p 152.

<sup>41</sup> Allen P, Gendered Candidate Emergence in Britain: Why are More Women Councillors Not Becoming MPs? *Politics*, 2013, Vol 33(3), p 152.

<sup>42</sup> Sojo V and Wheeler M, [You might hate gender quotas, but they work](#), Crikey, 12 July 2016.

Amongst conservative MPs in particular, a number of female Liberal members have championed supply-side strategies such as mentoring as the means to increase women's representation. A February 2018 article in *The Australian* quoted West Australian Senator Linda Reynolds as stating:<sup>43</sup>

...the solution to what others have dubbed the Liberals' "women problem" [is] not in introducing "left-wing" quotas but in encouraging conservative women to seek preselection...she and some of her Coalition colleagues were working together on a formal program to encourage and assist more women to stand for preselection. The approach was supported by Malcolm Turnbull.<sup>44</sup>

Similarly, NSW Nationals MLC Bronnie Taylor stated:<sup>45</sup>

Women need to be championed and encouraged for these opportunities. They need to feel like they can step forward and have the support.

West Australian MP Melissa Price—recognising the "utterly gruelling" nature of pre-selection—opined that:<sup>46</sup>

...female candidates need to be given the courage to put their hand up and then supported through the process...a formal mentoring or sponsorship program involving senior MPs would get more women into the party and into the pre-selection pipeline.

## 4.2 Demand-side strategies

*Demand-side* strategies create a demand for female senior leaders to fill nominated roles. Of these strategies, quotas are undoubtedly the most common. Dahlerup defines quotas as "an affirmative action measure, which stipulates that there should be a certain number or proportion of women among those nominated or elected". Quotas may be divided into three main types, as outlined below.

### Party candidate quotas

Party quotas are the most common type of gender quotas; measures adopted by political parties that either commit the party to nominating a certain number of female candidates, or set an aspirational target number of candidates of each gender. According to Dahlerup, the main reason for electoral gender quotas is to "force the political parties to break with their tradition of recruiting mainly male candidates for their lists and instead to start seriously recruiting women".<sup>47</sup> Voluntary forms of these quotas (i.e. aspirational targets) are the most common

<sup>43</sup> Burrell A, Libs target 'just needs more women', *The Australian*, 5 February 2018

<sup>44</sup> Burrell A, Libs target 'just needs more women', *The Australian*, 5 February 2018

<sup>45</sup> Druce A, MP representation needs a fix, *The Land*, 1 February 2018

<sup>46</sup> Norman J, Liberals' lack of female representation is costing them votes, so senior women are speaking out, *ABC Online*, 27 February 2018

<sup>47</sup> Dahlerup D, Electoral Gender Quotas: Between Equality Of Opportunity And Equality Of Result, *Representation*, 2007, Vol 43(2), p 84

type in the Australian context.

### Legislated candidate quotas

Quotas may also be enshrined in legislation or a country's Constitution, whereby a statute mandates that political parties have a certain proportion of women on their candidate lists for an election. Due to their legislative basis, their passage usually requires some degree of cross-partisan agreement, or referendum.<sup>48</sup> Like party candidate quotas, legislated candidate quotas aim at increasing the number of women on the lists at elections but do not guarantee that a fixed number of women will be elected. However given their status as law, a distinctive feature of legislative quotas is that they usually contain sanctions for non-compliance and may be subject to oversight from external bodies.<sup>49</sup>

### Reserved seats

Reserved seats for women are a demand-side strategy that involves fixing a set number of seats that may only be held by women, prior to an election. Reserved seats systems are by their nature legislated quota systems, mandated by a country's constitution or electoral law. Krook notes that reserved seats appear primarily in Africa, Asia and the Middle East and often provide for low levels of female representation (usually between 1% and 10%)<sup>50</sup>. According to Dahlerup, reserved seat systems have always been under attack for violation of the principle of merit, offering seats without any competition, since the exact number of women to be elected is defined in advance.<sup>51</sup>

#### 4.2.1 The Australian experience

It is important to note that definitional difficulties exist around the use of the word "quota". According to the Commonwealth Workplace Gender Equality agency, quotas refer to *mandatory* levels of gender representation, often enforced by legislated penalties.<sup>52</sup> Based on this definition, it is clear that what are commonly discussed in the Australian context are instead *gender targets*; that is, voluntary levels of representation. This paper uses the term voluntary quotas interchangeably with gender targets.

A 2007 NSW Parliamentary Research Service Briefing Paper noted the specific challenges faced by parliamentary chambers composed of members from single member constituencies,<sup>53</sup> such as the NSW Legislative Assembly and

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<sup>48</sup> Krook M, *Quotas for Women in Politics*, Oxford University Press, 2009, p 9

<sup>49</sup> Krook M, *Quotas for Women in Politics*, Oxford University Press, 2009, p 9

<sup>50</sup> Krook M, *Quotas for Women in Politics*, Oxford University Press, 2009, p 6

<sup>51</sup> Dahlerup D, *Electoral Gender Quotas: Between Equality Of Opportunity And Equality Of Result, Representation*, 2007, Vol 43(2), p 86

<sup>52</sup> The Workplace Gender Equality Agency, *Targets and Quotas: Perspective Paper*, 2016.

<sup>53</sup> Drabsch T, [Women, Parliament and The Media](#), NSW Parliamentary Research Service, April

Commonwealth House of Representatives. It stated:

One of the difficulties with implementing quotas in Australia is the use of single member constituencies for the NSW Legislative Assembly and the Australian House of Representatives. Multi-member constituencies can allow a number of male and female candidates to stand without the position of any particular person put at risk. Opposition to their use in systems with single member electorates may subsequently be greater as it may threaten the replacement of male incumbents with female candidates. The imposition of quotas in single member electorates can also substantially inhibit the freedom of political parties to select the candidate of their choice. Quotas are accordingly less likely to be supported in political systems dominated by political parties.... Parties may be reluctant to remove an incumbent male member from a safe seat so that a female candidate can stand in his place. Proportional representation is seen as a much better vehicle for improving the number of women parliamentarians as parties do not have to deny a place to an incumbent and/or male candidate in order to select a woman.<sup>54</sup>

In the decade since this publication, whilst no major political party in Australia has implemented mandatory gender quotas, the NSW Labor Party has increased its voluntary gender quota to 50% (by 2025), as shown in Table 4.<sup>55</sup>

**Table 4: Summary of demand-side strategies used by major political parties in NSW**

Political Party	Mandatory gender quota	Voluntary gender quota <sup>56</sup>
<b>NSW Liberal Party</b>	x	x
<b>NSW Labor</b>	x	Yes – 50% (by 2025)
<b>NSW Nationals</b>	x	x

### Coalition (Liberal and National parties)

The NSW Liberal Party currently does not have any quota system in place for women. However, the Sydney Morning Herald reported that the party was set to consider introducing quotas to ensure 40 per cent of those preselected for Local, State and Federal government were women, following a proposal from State President Kent Johns.<sup>57</sup> Another option Mr Johns raised was introducing a

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<sup>54</sup> Drabsch T, [Women, Parliament and The Media](#), NSW Parliamentary Research Service, April 2007, p 31,33

<sup>55</sup> This figure was increased to 40% in 2012, and again in 2015, to 50% by 2025.

<sup>56</sup> Aspiration target can refer to non-compulsory targets, as well as the requirement that attempts be made to ensure women make up at least 50%.

<sup>57</sup> Nicholls S, ['Massive stoush' over plan to get more Liberal women into parliament](#), Sydney



loading of 20 per cent for women during preselections, until the level of 40% female candidates was reached.

This announcement came two years after calls by then- NSW Treasurer Gladys Berejiklian, who in 2015, proposed the introduction of “deliberate targets” to ensure 50 per cent of MPs in Australian parliaments were women.<sup>58</sup>

Like the Liberal Party, the National Party does not support the adoption of gender quotas – mandatory or aspirational. The reasons for this opposition are explored in **4.2.3**.

### Labor Party

The Australian Labor Party (ALP) and all State branches adopted a voluntary quota at its 1994 national conference. This quota was set with the aim of ensuring that women were preselected to 35% of winnable seats by 2002.<sup>59</sup> This figure was increased to 40% in 2012, and again in 2015, to 50% by 2025.<sup>60</sup>

The ALP Constitution sets out the requirements of the quota under clause 19, including requiring that all State branches comply. It states:

#### **Affirmative action**

**19** The ALP is committed to men and women in the Party working in equal partnership. It is our objective to have 50% women at all levels in the Party organisation, and in public office positions the Party holds. To achieve this, the Party adopts the affirmative action model in this clause:

#### **Minimum percentage**

(a) In this clause, “minimum percentage” means 40%. From 2022 it means 45%; and from 2025 it means 50%...

#### **Public office preselections**

(d) For all public office preselections, at least the minimum percentage of the candidates preselected for each of the following groups of seats must be women: (i) the seats currently held by the ALP, (ii) the seats that would be won by the ALP with a 5% increase in its two party preferred vote since the last election (“winnable seats”), and (iii) all other seats to be preselected.<sup>61</sup>

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*Morning Herald*, 8 October 2017.

<sup>58</sup> Needham K, [Target, Quota, Whatever It Takes – Just Get More Women Into Parliament](#), *Sydney Morning Herald*, 22 August 2015

<sup>59</sup> [‘Our history’](#), EMILY’s List Australia

<sup>60</sup> Sawer M, [The case for quotas in politics: the absence of women isn’t merit-based](#), *The Conversation*, 30 July 2015

<sup>61</sup> Australian Labor Party, [National Platform](#), Constitution and rules, p 13.



## Greens

Whilst there is no formal quota enshrined in the Australian Greens' constitution, Clause 16 reads:

### **Affirmative action**

16.1 The Greens are committed to the principle of women and men having equal status within society and will practice gender equity and equal opportunity principles.

16.2 The Greens will instigate affirmative action for women to encourage them into non-traditional positions.<sup>62</sup>

Within NSW, Clause 1.4 of the Constitution of the NSW Greens states:

1.4. In all the activities and appointments of The Greens NSW, attempts shall be made to ensure that there is at least 50 percent representation by women and by members from outside metropolitan Sydney and representation by minority and disadvantaged groups<sup>63</sup>

### **4.2.2 Opposition to quotas**

According to a 2013 publication by the Commonwealth Parliamentary Library:

The Coalition parties (Liberal Party and the Nationals) have not adopted affirmative action measures for their respective parties' parliamentary wings on the basis that gender quotas contradict the principle of merit.<sup>64</sup>

Since this publication, a number of representatives of the Liberal Party have made statements in defence of the need for MPs to be chosen based on merit.<sup>65</sup> On 9 October 2017, a NSW Liberal spokesman stated that the party:

...strongly believes in selecting candidates on merit and ensuring a representative field of candidates ahead of every state and federal election.<sup>66</sup>

These sentiments were echoed by the Federal President of the Liberal Party of Australia, Nick Greiner, who said on 21 May 2018:

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<sup>62</sup> Clause 16, [The Charter and National Constitution of the Australian Greens](#)

<sup>63</sup> Clause 1.4, [Constitution of the Greens NSW](#)

<sup>64</sup> McCann J, [Electoral quotas for women: an international overview](#), Commonwealth Parliamentary Library, 14 November 2013

<sup>65</sup> It is important to note that opposition to quotas is not uniform across the Coalition: Liberal MP Julia Banks says the "meritocracy argument" is flawed and that quotas, or "hard targets", are needed to force change quickly. See Norman J, Liberals' lack of female representation is costing them votes, so senior women are speaking out, *ABC Online*, 27 February 2018

<sup>66</sup> Nicholls S, 'Massive stoush' over Liberal candidate quota plan, *The Sydney Morning Herald*, 9 October 2017

We don't believe in quotas, we don't think that women ought to be there on some sort of mathematical formula...[t]he Liberal Party's got a clear, and...philosophically coherent position about that.”<sup>67</sup>

Ainslie van Onselen, former law lecturer at the Edith Cowan University School of Law and Justice, identifies tokenism as a second source of opposition to quotas. She writes:

...Another argument...is that [gender quotas] makes female representation 'tokenistic', thereby doing more damage to the cause of women than the absence of a quota system...High-profile Liberal women have run arguments that they wouldn't want their standing in the parliament to be diminished by claims they didn't win their positions based on merit.<sup>68</sup>

The opposition to quotas based on “tokenism” appears to be concerned with the perceived negative effect token appointments may have on the legitimacy of the democratic system. Broadly, the legitimacy of the system could be affected in two main ways.

The first stems from a concern that allowing appointment via quota system – particularly in the case of mandatory gender quotas or reserved seats – may allow candidates to circumvent normal democratic processes, such as election by popular vote.<sup>69</sup> The author of the book *Has Democracy Failed Women?* Drude Dahlerup notes that the particular example of reserved seats for women – a form of quota – may be seen as more problematic if they do not subject those women to normal electoral processes. However, he notes that most contemporary reserved seat systems for women—like that which operates in Morocco—<sup>70</sup> do still subject women to open competition for their seats, arguably retaining their legitimacy.

The second argument against “tokenistic” appointments is that women appointed via the quota system may be perceived as “quota women only” and their political effectiveness limited. This may be because they may be accused of not having their own policy agenda<sup>71</sup> or as was the case in Argentina,<sup>72</sup> are not taken

<sup>67</sup> ABC Online, *Liberal Party president Nick Greiner concedes 50-50 gender split of elected MPs unlikely by 2025*, 21 May 2018

<sup>68</sup> Van Onselen A, *It's Time: Women & Affirmative Action in the Liberal Party*, *Australian Quarterly*, 2008, Vol. 80(4), 4-8.

<sup>69</sup> Dahlerup D, *Has Democracy Failed Women*, 2018, Polity Press, Malden, Massachusetts, p 75.

<sup>70</sup> In Morocco, sixty of the 395 seats of the parliament are reserved for women who are elected by all voters on the basis of a special national list.

<sup>71</sup> In the British parliamentary context, a 2016 study by Peter Allen, David Cutts and Rosie Campbell found that by accepted metrics, 'quota women' are actually better qualified than non-quota women and are more likely than not to have had previous political experience. See Allen P et al, *Measuring the Quality of Politicians Elected by Gender Quotas: Are They Any Different*, *Political Studies*, 2016, Vol. 64(1) 143–163

<sup>72</sup> Argentine law 24,012, enacted in 1991, requires that 30% of candidates on the ballot paper for

seriously based on a perceived lack of qualification. On this second point, Susan Franceschet and Jennifer Piscopo analysed the truth behind this argument and found that both male and female members elected in Argentina had the same level of education.<sup>73</sup> Moreover, Dahlerup states that cases of qualification are only ever directed at women, with the questions of deservingness never posed of male candidates.<sup>74</sup>

#### 4.2.3 Do quotas work?

The use of quotas to increase women's representation in parliament remains a controversial issue throughout the world.<sup>75</sup> However, there is considerable evidence for their efficacy based on analysis of their implementation throughout the world. As Table 5 shows 13 of the top 15 countries for women's representation in parliament used a quota-like system as at January 2017.<sup>76</sup>

Whether or not a quota improves the number of women in parliament may also depend on the type of quota used, an idea explored as part of a 2016 study by Sojo, Wood and Wheeler.<sup>77</sup> In this study, the authors examined whether mandatory quotas were more effective in increasing female representation than quotas that were set without enforcement mechanisms (i.e. aspirational targets).

The study explored the effect of a variety of variables in quotas across 74 national parliaments. Key findings of the study included:<sup>78</sup>

- The two key determinants of a quota's success were the goal level (i.e. quota percentage) and the level of enforcement (i.e. whether a quota is mandatory or aspirational)
- Countries with lower goal levels but higher levels of enforcement achieved similar levels of female representation to countries with higher goal levels but lower levels of enforcement.

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each party be women.

<sup>73</sup> Franceschet S and Piscopo J, Gender and Political Backgrounds in Argentina, *The Impact of Gender Quotas*, 2012, Oxford University Press, p 27-42

<sup>74</sup> Dahlerup D, *Has Democracy Failed Women*, 2018, Polity Press, Malden, Massachusetts, p 74.

<sup>75</sup> Dahlerup D, Electoral Gender Quotas: Between Equality Of Opportunity And Equality Of Result, *Representation*, 2007, Vol 43(2), 78

<sup>76</sup> Note that Dahlerup refers to a number of caveats surrounding the use of quotas. He states "Quota regulations must work with the electoral system in place or they will have little or no effect. It is important to choose a type of quota system that works. Quotas have tended to work best in proportional representation electoral systems. In general, it is difficult to implement a quota system in a single member constituency electoral system". See Inter-Parliamentary Union, *Equality in Politics: A Survey of Men and Women in Parliament*, 2008, p 25

<sup>77</sup> Sojo V et al, [Reporting requirements, targets, and quotas for women in leadership](#), *The Leadership Quarterly* Vol 27, 2016, p 527

<sup>78</sup> Sojo V et al, [Reporting requirements, targets, and quotas for women in leadership](#), *The Leadership Quarterly* Vol 27, 2016, p 532

- Developed countries, along with countries which had had quotas in place for longer generally experienced greater female representation in parliaments.
- There were similar levels of female representation in parliaments of countries with reserved seats and in countries with goals for lists of nominees.

**Table 5: Top 15 countries for women's representation in parliament**

Rank	Country	% of parliament composed of women	Most recent election year	Type of quota	Type of electoral system
1	Rwanda	64.0	2013	Legislated quota	PR
2	Bolivia	53.1	2014	Legislated quota	Mixed
3	Cuba	48.9	2013	No quota	One party
4	Iceland	47.6	2016	Party quota	PR
5	Nicaragua	45.7	2016	Legislated quota	PR
6	Sweden	43.5	2014	Party quota	PR
7	Senegal	42.7	2012	Legislated quota	Mixed
8	Mexico	42.4	2015	Legislated quota	Mixed
9	Ecuador	41.6	2013	Party quota	PR
10	Finland	41.5	2015	No quota	PR
11	Namibia	41.3	2014	Party quota	PR
12	South Africa	40.8	2014	Party quota	PR
13	Mozambique	39.6	2014	Party quota	PR
14	Norway	39.6	2013	Party quota	PR
15	Belgium	39.3	2014	Legislated quota	PR

A recent study by researchers from Australia, Canada and Israel analysed factors that make a difference to the number of women preselected for public office by political parties.<sup>79</sup> Looking at a range of established democracies such as

<sup>79</sup> Pruyzers S et al, "Candidate Selection Rules and Democratic Outcomes: The Impact of Parties on Women's Representation", *Organizing Political Parties: Representation, Participation and*

Australia, Belgium, Denmark, France, Italy, Norway, Sweden and the UK the study drew a number of conclusions, based on common trends. On the efficacy of quotas, an author of the study noted:

State-mandated electoral quotas work. Parties in countries that have adopted electoral quotas mandated by law nominate significantly more women than parties in countries without such laws. Where quotas exist (such as Belgium, France, Poland, Portugal, Spain), they typically require that between 33% and 40% of candidates are women. [The same impact was not observed] when looking at quotas adopted voluntarily by political parties.<sup>80</sup>

On other measures:

Parties that have established internal women's groups, guarantee women a place on the party's highest executive, or reserve delegate positions for women at party conferences do not produce more gender-balanced slates of candidates compared to those parties that do not, [however] giving members a greater say in party preselections did not affect the number of women candidates nominated.

This is an important finding, as the prevailing view in debates on preselection reform in Australian parties is that better representational outcomes, such as nominating women and ethnic minorities, are achieved if party hierarchies rather than grassroots members control preselections. Our research suggests that opening up the process does not narrow the representativeness of the candidate pool.

...[P]olitical ideology plays an important role in fostering equality and the desire for gender balance. Even accounting for differences in political systems, we found that parties on the political left (social democrats and The Greens) are more likely to produce balanced slates of candidates than their right-wing or conservative counterparts.

Two other factors...strongly influenced the number of women candidates nominated: the percentage of women in the national parliament, and the number of women on the party executive. This is because, when women reach positions of power, gender stereotypes break down and they inspire others to enter the political arena.<sup>81</sup>

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*Power*, Oxford University Press, 2017

<sup>80</sup> A Gauja, [How The Liberals Can Fix Their Gender Problem](#), *The Conversation*, 13 October 2017

<sup>81</sup> A Gauja, [How The Liberals Can Fix Their Gender Problem](#), *The Conversation*, 13 October 2017

## 5. WHAT ARE PARLIAMENTS DOING?

*Parliament is always slow at catching up with what's happening. That's my frustration sometimes.*

**The Hon. Shelley Hancock, Speaker of the NSW Legislative Assembly**

As the number of elected women grows, the need for a parliament to adapt to suit the requirements of all members becomes more apparent. At the same time, changing the parliamentary environment to be more friendly to women may make the idea of serving as a member more appealing, particularly to women with families. There are a number of ways in which parliaments across Australia have changed in the face of changing member composition. These include allowing children in the chamber, proxy voting and the introduction of family friendly hours. Many of these changes have occurred unnoticed, whilst others have generated [significant media attention](#).

The 2012 IPU *Gender-sensitive parliaments* report noted that both men and women parliamentarians identified balancing work and family obligations as their 'greatest gender equality challenge'.<sup>82</sup> The survey compiled a list of measures taken by parliaments across the globe to address this issue, as shown in Table 6.

**Table 6: "Gender sensitive" measures taken by parliaments**

	Yes (%)	No (%)
Sittings aligned with school calendar (N=82)	39.0	61.0
Special arrangements for breastfeeding mothers* (N=83)	27.7	68.7
Longer stays in districts (N=65)	23.1	76.9
Night sittings discontinued* (N=83)	21.7	77.1
Childcare facilities provided in parliament* (N=86)	20.9	77.9
Flexible working hours (N=75)	18.7	81.3
Travel allowances for family members provided for commuting between district and parliament* (N=81)	16.0	82.7
Financial assistance to parliamentarians for childcare* (N=82)	8.5	90.2
Family room* (N=81)	6.2	91.4
Proxy voting for parliamentarians who are absent because of childcare responsibilities* (N=85)	5.9	92.9

Source: Questionnaire A, [www.gender-parliaments.org](http://www.gender-parliaments.org)

Note: \*Figures do not total 100 because some countries said the measures had been "adopted, but not yet implemented".

Parliaments are the workplaces of the elected Members, who, in performing their duties to their electorates, are required to work within the established framework. In Westminster parliaments like NSW, these frameworks are shaped by the conventions, practices, and precedents of the Parliament of the United

<sup>82</sup>Palmieri S, [Gender- Sensitive Parliaments: A Global Review of Good Practice](#), *International Parliamentary Union*, Report 65, 2011, p 90.

Kingdom. As with any workplace, the framework created by each parliamentary House is critical and has a particular effect on those responsible for young children and families. Decisions of the House towards maternity leave and childcare may have a significant impact on these members.

The main way that decisions of the House are given effect is through the Standing and Sessional Orders. The Standing Orders of a House of Parliament are the main rules by which each House operates and are made by the members of each House. In each Australian jurisdiction, the various Constitution Acts grant power to the Houses to prepare and adopt rules regulating its conduct.

Within NSW, section 15 of the *Constitution Act 1902* permits both Houses to prepare and adopt standing rules and orders to regulate their conduct, procedures and mode of communication with each other.<sup>83</sup> The standing orders are adopted by simple vote of the House and can be amended by the House. Such standing rules and orders are approved by the Governor and, once approved, become binding and in force. In addition to this, both Houses may adopt sessional orders which have the force of, and may replace or modify, standing orders. Sessional orders are temporary rules adopted by resolution of the House and do not require the Governor's approval.

The Speaker or President of each parliamentary chamber holds a significant amount of discretion in determining the interpretation of Standing orders. In the NSW Legislative Assembly, Standing Order 49 which states "*The Speaker shall maintain order in the House*" gives the Speaker broad authority to control proceedings within the Chamber.<sup>84</sup> A similar provision exists in the Legislative Council Standing Orders within Standing Order 83.<sup>85</sup>

Table 7 provides an overview of the standing and sessional orders in each Australian jurisdiction in terms of the following – permitting children in the chamber, allowing breastfeeding, allowing women members to vote by proxy, creation of family friendly hours. Note that while a number of jurisdictions – including the NSW LA – are known to allow children in the Chamber with the Speaker's permission, this table only lists jurisdictions where permission is explicitly granted by the Standing and Sessional Orders.

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<sup>83</sup> Section 15, [Constitution Act 1902](#)

<sup>84</sup> Parliament of NSW, [Legislative Assembly Standing Orders](#), p 15

<sup>85</sup> Parliament of NSW, [Legislative Council Standing Orders](#), p 29

**Table 7: Standing and sessional orders in Australian jurisdictions**

	Strangers/ visitors permitted	Children expressly permitted (both breastfeeding and nursing)	Children expressly permitted (breastfeeding only)	Proxy voting	Leave of absence provision <sup>86</sup>
<b>NSW LA</b>	x	x	x	x	✓
<b>NSW LC</b>	x	Nursing permitted at discretion of President, for Members seated in President's gallery at time of division	✓	x	✓
<b>QLD LA</b>	x	x	x	If member is of ill health	✓
<b>VIC LA</b>	By leave of Speaker	x	✓	x	✓
<b>VIC LC</b>	By leave of Council or President	x	x	x	✓
<b>SA LA</b>	x	x	x	x	✓
<b>SA LC</b>	At discretion of President	x	x	x	✓
<b>WA LA</b>	At discretion of	x	x	x	✓

<sup>86</sup> The leave of absence provision in the Standing Orders of all Australian parliaments is the means by which maternity leave is approved by the House. This provision is also used for other forms of leave, as required by Members.



	Strangers/ visitors permitted	Children expressly permitted (both breastfeeding and nursing)	Children expressly permitted (breastfeeding only)	Proxy voting	Leave of absence provision <sup>86</sup>
	Speaker				
WA LC	At discretion of President	x	x	x	✓
TAS LA	At discretion of Speaker	x	x	x	✓
TAS LC	x	x	x	x	✓ <sup>87</sup>
NT LA	At discretion of Speaker	At discretion of Speaker	At discretion of Speaker	For pre-registered Members nursing an infant	✓
ACT LA	x	x	✓	x	✓
House of Representatives	✓	✓	✓	✓	✓
Senate		Nursing permitted at discretion of President	✓	x	✓

<sup>87</sup> The Tasmanian Legislative Assembly is the only House in Australia where maternity leave is granted without a vote of the House. Under Standing Order 36(2), a Member shall be entitled, without a vote of the House, to 12 weeks maternity leave of absence, such leave to be taken in a consecutive period from the date its commencement is notified to the Speaker in writing.

## 5.1 Children in the chamber

*It'll be a long time, and possibly never, before this job is truly family-friendly, but this is a significant way of trying to improve.*

**Federal MP Tony Burke on the amendment of Standing Orders to allow nursing children in the chamber**

**2 February 2016, House of Representatives Hansard**

The sanctity of the floor of the parliamentary chamber is a longstanding aspect of Westminster parliamentary practice. *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* refers to the "ancient custom of parliament" which until 1845, excluded non-Members from every part of the House of Commons and House of Lords while the Houses were sitting.<sup>88</sup> The amendment of this restriction by Standing and Sessional orders to allow public access to the galleries represents the form of access present in all Australian parliaments today.

It is within this historical context that the presence of children must be considered. A review of discussions surrounding children's' admittance raises a number of common issues, which have been broadly divided into arguments for and against their presence.

### 5.1.1 Issues and limits

#### 5.1.1.1 Arguments for children in the chamber

The primary argument for allowing children in the chamber is that doing so would remove a significant impediment to women's participation. Indeed, the IPU reports that the "greatest gender equality challenge" is the extent to which male and female parliamentarians are able to balance work and family obligations.<sup>89</sup> Parliamentary sitting days – long, frenetic and unpredictable – are by their very nature incompatible with the peace and stability required by young children.<sup>90</sup> Members are required to be present in the Chamber within four minutes from the start of division bells in the Legislative Assembly and five minutes in the Legislative Council. One Member of the NSW Legislative Assembly spoke of

<sup>88</sup> Jack M ed., *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 24<sup>th</sup> ed., LexisNexis, p 13

<sup>89</sup> Palmieri S, [Gender- Sensitive Parliaments: A Global Review of Good Practice](#), *International Parliamentary Union*, Report 65, 2011, p 90.

<sup>90</sup> A monograph by the Parliament of Australia Research Service shows that about half of respondent Members of the House of Representatives work between 12-15 hours during sitting weeks, while a third responded that they worked between 16-19 hours during these same weeks. See Breton S, [Work/life imbalance](#), Parliament of Australia, March 2010.

being in the middle of feeding her child when the division bells rang,<sup>91</sup> whilst others have found themselves needing to pass their children to a staff member before entering the Chamber.<sup>92</sup>

A 2009 publication by the Commonwealth Parliament's Research Service, titled *Children in the parliamentary chambers*, notes that those who have called for a relaxation of the standing orders have emphasised the need to modernise parliament by upholding "modern workplace values". The publication refers to Article 3 of the International Labour Organisation's *Workers with Family Responsibilities Convention 1981* as an expression of these values. Article 3 of the Convention requires signatory states to:

...make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.<sup>93</sup>

### 5.1.1.2 Arguments against children in the chamber

#### Parliament as a workplace

At the same time that calls are being made for parliament to modernise as a workplace, others are highlighting that it remains just that – a workplace. Indeed, the Chair of the Senate Procedure Committee, Senator Alan Ferguson commented:

Where else can you take a child into the workplace? That is the question that is being asked by a lot of people. [Parliament] is a workplace.<sup>94</sup>

In debate about the presence of children in the Western Australian Legislative Assembly in 2010, Rita Saffioti – a Member who sought to nurse her child in the Chamber – acknowledged that while most people may not bring their children to their workplace:

... [the] situation is a bit unique [for Members] because as a Member of Parliament there is no maternity leave and I can't substitute someone else in my job - you can't have an acting member for Swan and as a result I need to fulfil my parliamentary obligations.<sup>95</sup>

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<sup>91</sup> Needham K, [Why women in politics with babies face different working conditions](#), *Sydney Morning Herald*, 6 November 2016.

<sup>92</sup> Harrison D, [Senate rules far from child's play](#), *Sydney Morning Herald*, June 19 2009

<sup>93</sup> Article 3, [Workers with Family Responsibilities Convention 1981](#), International Labour Organisation. Australia ratified the convention on 30 March 1990.

<sup>94</sup> Journals of the Senate, No. 73, Thursday, 22 June 2009, p 3913.

<sup>95</sup> Spagnolo J, [Labor MP Rita Saffioti wants her baby in Parliament](#), *Perth Now*, 28 February 2010.

## Parliament as a special environment

Members have also argued that the special role of parliament in creating legislation means the sanctity of its floors should be preserved. This argument acknowledges the growth in flexible workplace alternatives outside the parliament but believes parliament's special status should exempt it from contemporary norms. Barnaby Joyce most clearly expressed this view when he highlighted the sanctity of the Senate chamber:

There is a special place in this parliament and it is the bar of the Senate. Go past that bar and you are in the voting section of this chamber of course the attendants can go there too. There are 76 people in our nation who are elected to that bar and that is an incredible privilege. Everything about going beyond that bar of the Senate must be respected.<sup>96</sup>

Former Sex Discrimination Commissioner and NSW Minister for Family and Community Services, Minister for Social Housing, and Minister for the Prevention of Domestic Violence and Sexual Assault Pru Goward has also previously emphasised the unique nature of the parliamentary chambers, stating:

You can't be distracted. The chamber for a parliamentarian is like an operating theatre for a surgeon. It's where the main business is done.<sup>97</sup>

On the other hand, some have argued that the adversarial nature of the chamber makes it an unsuitable environment for young children, who may find the volume and intensity of the debate intimidating. In 2002 the Speaker of the UK House of Commons, Betty Boothroyd considered that feeding a child during chamber and committee sessions was not in the interests of both parliamentary business and the child itself:

I do not believe that the feeding of babies in either the Chamber or Committee is conducive to the efficient conduct of public business. Nor do I think that the necessary calm environment in which to feed babies can be provided in such circumstances.<sup>98</sup>

Arguably, considerations of a child's welfare may represent an argument against bringing a child into the chamber, particularly for very young children during intense debates. However, these considerations are likely to vary based on the age of the child and the nature of the debate occurring in the chamber, meaning a strict ban on their presence is unnecessarily inflexible.

## Availability of preferable alternatives

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<sup>96</sup> Joyce B, Procedure Committee Reference, 22 June 2009, p. 3915.

<sup>97</sup> Akerman P and Warne-Smith D, [Childcare division that rang alarm bells](#), *The Australian*, 20 June 2009.

<sup>98</sup> Boothroyd B, *The Autobiography*, Century, London, 2001, p. 291.

It has also been said that the availability of suitable alternatives presents a compelling argument against allowing children in the Chamber. A number of parliaments, including the House of Commons, allow nursing mothers to participate in divisions from the Speaker's Gallery – technically not considered the “floor” of the Chamber. Other Parliaments have constructed rooms adjoining the Chamber whilst others, such as Peru allow the participation of nursing members by the use of proxy votes.

### 5.1.2 NSW Parliament

#### 5.1.2.1 Legislative Assembly

Despite the absence of an express provision in the Standing Orders, the presence of children in the NSW Legislative Assembly chamber is not an unusual occurrence. A Sydney Morning Herald [article](#) published in May 2017 stated that the current Speaker of the Legislative Assembly allows children in the chamber as need requires, describing the need to change Standing Orders to permit this as “ridiculous”. The Member for Newtown, Jenny Leong MP spoke of her experience in bringing her daughter into the Chamber:

“The Speaker encouraged me to come in...and walked me to my seat before she formally came in. That was a strong indication of her support.”<sup>99</sup>

Whilst acknowledging the support of the Speaker, Ms Leong noted that it is “important for there to be rules to protect parents so MPs aren't reliant solely on the goodwill of the government.”<sup>100</sup>

On one hand, without a formal amendment to the Standing Orders, it appears reasonable to be concerned about the difficulty of ensuring consistent observance of this practice, particularly in the case of a change in Speaker. For example, under Standing Order 260, the Speaker has the discretion to remove a person if they interrupt or disturb the orderly conduct of the House, which in theory could extend to the removal of a crying child by a future Speaker.<sup>101</sup>

However, on the other hand, it is arguable that the current arrangement in the Legislative Assembly is to be preferred. Whilst the Standing Orders cover many aspects of proceedings in the House, they do not cover everything.<sup>102</sup> Well

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<sup>99</sup> Needham K, [Why women in politics with babies face different working conditions](#), *Sydney Morning Herald*, 6 November 2016.

<sup>100</sup> Needham K, [Why women in politics with babies face different working conditions](#), *Sydney Morning Herald*, 6 November 2016.

<sup>101</sup> This provision relates to maintaining order in the House and there have been instances where visitors in the public gallery have been removed under this provision. However, a child has never been removed from the chamber under this Standing Order.

<sup>102</sup> For example the use of props, photography and dress code for Members are not covered by Standing Orders but by the custom and practice of the House.

established customs and practices are of equal standing to the Standing and Sessional Orders and may provide more flexibility than a Standing Order on the same manner. They are arguably also more impervious to change, as unlike Standing Orders, customs and practices of the House cannot be suspended and removed.

### 5.1.2.2 Legislative Council

The Standing Orders of the Legislative Council were first amended to allow breastfeeding infants on the floor of the Chamber in 2004, with the adoption of the current Standing Orders.<sup>103</sup> Since 2004, a number of MLCs have been permitted to bring their babies into the chamber whilst breastfeeding. It also appears that female Members nursing or caring for children have been offered the use of a “pair” during times where the child is being held, but not breastfed. Pairs are an informal arrangement between the whips of the parties, whereby Members who are unable to attend the Chamber may be “paired” with a member of the opposing party who will then abstain from voting. Whilst pairs provide a suitable alternative in certain situations, they have been criticised as unsuitable in instances where a Member may want their name recorded as voting ‘for’ or ‘against’ certain pieces of legislation.<sup>104</sup>

On 23 February 2016, former President of the Legislative Council Don Harwin MLC referred an inquiry into young children accompanying members into the House to the Legislative Council Procedure Committee.<sup>105</sup> This occurred in response to an occasion in the Legislative Council where a member of the Council, Courtney Houssos MLC, was unable to enter the floor of the Chamber with her child.<sup>106</sup> The Terms of Reference required the Procedure Committee to explore amendment options to standing order 196(3) of the Legislative Council Standing Orders, as well as “alternative mechanisms” to existing procedures. The inquiry received a number of submissions from Members of NSW Parliament as well as from Members and Clerks from other Parliaments in Australia.

The Committee considered seven options for amendment of the standing orders. These ranged from making no change to the standing orders, to amending standing order 196(3) “*to allow a child in the care of member to enter any part of*

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<sup>103</sup> According to the Legislative Council of NSW Procedure Committee “*Inquiry into young children accompanying members into the House*”, this modification to the concept of visitor was made in common with a number of other parliaments following an incident in 2003 in the Victorian Legislative Assembly. See Legislative Council of NSW Procedure Committee, [Inquiry into young children accompanying members into the House](#), Report 9/56, October 2016, p 4. For an overview of the incident referred to above, see *The Age*, [Baby in the house](#), 12 March 2003.

<sup>104</sup> Letter from Shaoquette Moselmane

<sup>105</sup> Legislative Council of NSW Procedure Committee, *Inquiry into young children accompanying members into the House*, Report 9/56, October 2016

<sup>106</sup> Ryan Diefenbach, [‘Take Your Kid To Work Day’ May Not Be The Thing For All Professions](#), *Huffington Post*, 31 August 2015

*the House reserved for Members while the House is sitting*".<sup>107</sup> The Committee noted this last option would replicate procedures implemented in the House of Representatives in March 2016. Other options also included expressly granting the President of the Council the power to permit children into the Chamber, or to allow a Member with child to vote from the President's gallery.

In October 2016, the Committee tabled its report, acknowledging:

...the need to find a balance between the need for Parliament to seek to create a workplace that encourages a representative membership by supporting members to balance their work and family responsibilities, and the need for the Parliament to preserve the principle that the floor of the chamber is reserved for members in the task of representing the interests of the people of the State who elected them, and that order is maintained so that they are not disrupted in undertaking this task.<sup>108</sup>

The Committee concluded that the most appropriate means to address this issue of balance was through adoption of a sessional order for the remainder of the Parliament. This sessional order, adopted on 9 November 2016, varies Standing Order 113, which provides for voting in divisions, by inserting the following after paragraph (3):

(4) Paragraph (3) does not apply, at the discretion of the President, to a member caring for a child and seated in the President's gallery when the question is put with the doors locked.<sup>109</sup>

### 5.1.3 Case study: Australian House of Representatives

The Australian House of Representatives is the only House in Australia that currently provides for the free movement of children being cared for into the parliamentary Chamber at any point in a sitting day, without relying on the discretion of the Speaker. Combined with the availability of proxy voting for nursing mothers, this has seen the House of Representatives described as "the most family-friendly chamber of any parliament in Australia".<sup>110</sup>

Whilst a resolution of the House of Representatives had been adopted with respect to nursing mothers in 2008 by allowing the option of proxy voting, the presence of children on the floor of the Chamber was a different story. Indeed, up until February 2016, no version of the House of Representatives Standing

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<sup>107</sup> Legislative Council of NSW Procedure Committee, *Inquiry into young children accompanying members into the House*, Report 9/56, October 2016, p 24

<sup>108</sup> Legislative Council of NSW Procedure Committee, *Inquiry into young children accompanying members into the House*, Report 9/56, October 2016, p 21

<sup>109</sup> Legislative Council of NSW, *Sessional Orders: First session of the Fifty-sixth Parliament*, February 2017, p 15. Paragraph (3) states "A member is not entitled to vote in a division unless the member is present in the chamber when the question is put with the doors locked."

<sup>110</sup> Pyne C, *Standing and Sessional Orders*, *House of Representative Hansard*, 2 February 2016, p 10.



Orders made any reference to the admission of children to the Chamber. The issue was considered by the House of Representatives Standing Committee on Procedure *Inquiry into the adequacy of provisions for nursing mothers in the House of Representatives*, which was established after a female Member of Parliament was reportedly asked to express more milk before voting.<sup>111</sup>

Reporting on the issue in 2016, the Standing Committee on Procedure inquiry noted:

While Members (both women and men) have brought their babies into the Chamber in the past, it is technically in breach of the standing orders. There have been occasions in this and other Houses where a Member has challenged the presence of another Member's child. The standing order prohibiting 'visitors in the House' creates uncertainty for a Member having no option but to bring their baby into the Chamber and potentially places the Speaker in a difficult position when a Member does so.<sup>112</sup>

In tabling its final report in November 2015, the House of Representatives Standing Committee on Procedure recommended that Standing Order 257 be amended by the addition of clause (d)

#### **257 Admission of Senators and visitors**

(a) Only the Speaker shall have the privilege of admitting visitors into the lower galleries, and may admit distinguished visitors to a seat on the floor of the Chamber.

(b) No Member may bring a visitor into any part of the Chamber, or that part of the room where the Federation Chamber is meeting, which is reserved for Members.

(c) Senators shall have the privilege of being admitted into the Senators' gallery without invitation. When present in the Chamber or galleries they must observe the Speaker's instructions regarding good order

**(d) A visitor does not include an infant being cared for by a Member.**<sup>113</sup>

On the first sitting day of 2016, the Leader of the House of Representatives Christopher Pyne moved a motion to amend standing order 257, stating that:

"No member, male or female, will ever be prevented from participating fully in the operation of the parliament, by reason of having the care of a baby."<sup>114</sup>

<sup>111</sup> Bourke L, [Liberal MP and new mum Kelly O'Dwyer told to express more breast milk to avoid missing votes in the chamber](#), *Sydney Morning Herald*, 16 September 2015.

<sup>112</sup> House of Representatives Standing Committee on Procedure, [Provisions for a more family-friendly Chamber](#), November 2015, p 4.

<sup>113</sup> House of Representatives Standing Committee on Procedure, [Provisions for a more family-friendly Chamber](#), November 2015, p 6.

<sup>114</sup> Pyne C, [Standing and Sessional Orders](#), *House of Representative Hansard*, 2 February 2016,



## 5.2 Proxy voting

### 5.2.1 Issues and limits

Proxy voting is a mechanism used both inside and outside parliament, allowing absent members to nominate a “proxy” to vote on their behalf during divisions. The practice has been used in the New Zealand parliament since 1996, allowing members to elect a proxy in cases of illness or other family cause of a personal nature, or to enable the member to attend to other public business. The Commonwealth House of Representatives has also adopted the mechanism, allowing nursing mothers to vote by proxy since 2008. In speaking on the motion, the Leader of the House, Anthony Albanese said:

The fact is that this parliament is changing. Increasingly, it is becoming more reflective of society as a whole. I think [the provision] will send a message to the public at large that we indeed recognise that working families are a reality and that working families, particularly working mothers and new mothers, have a critical role in this parliament if we are to truly be a representative parliament of Australia.<sup>115</sup>

The ability of parliaments to implement proxy voting appears to be in some part dependant on the governing Constitution. In the case of the Commonwealth, section 23 of the *Commonwealth Constitution* provides that each Senator shall have one vote.<sup>116</sup> In the 1991 edition of J.R. Odgers *Australian Senate Practice*, it was said that not only does section 23 pose a challenge to the implementation of proxy voting in the Senate, adoption of the practice “would be risky and not likely in the [Senate’s] best interests”.<sup>117</sup> In his submission to a 2009 Senate inquiry on the introduction of proxy voting,<sup>118</sup> the President of the Senate similarly observed that:

It is reasonably certain that the requirement in section 23 of the Constitution that “each senator shall have one vote” rules out the possibility of proxy voting in the Senate.<sup>119</sup>

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p 10.

<sup>115</sup> Albanese A, [Special provisions for nursing mothers](#), *House of Representative Hansard*, 12 February 2008, p. 152.

<sup>116</sup> Section 23 of Part II, Chapter I, [Commonwealth of Australia Constitution Act 1901](#).

<sup>117</sup> Odgers J R, *Australian Senate Practice*, Sixth Edition, 1991, p 416-417. Subsequent editions of Odgers have retained the view that allowing proxy voting in the standing orders would “be contrary to section 23 of the Constitution in so far as that section provides that each senator shall have one vote.” See Odgers J R, *Australian Senate Practice*, Fourteenth Edition, 2016, p 291.

<sup>118</sup> Senate Standing Committee on Procedure, [Third Report of 2009](#), August 2009, p4.

<sup>119</sup> NSW Legislative Council Procedure Committee, [Inquiry into young children accompanying members into the House](#), Report 9/56, October 2016, p 8. Note that Under Standing Order 100(4), the Senate continues to require that Members be present in the Chamber in order to vote

The situation in the Commonwealth House of Representatives is different. Whilst the Commonwealth Constitution explicitly provides for the number of votes per Senator, no equivalent provision exists for members of the House of Representatives. On the recommendation of the Standing Committee on Procedure, the House of Representatives adopted a resolution on 12 February 2008 to allow nursing mothers to give their vote by proxy.<sup>120</sup>

Along with constitutional issues, the issue of proxy voting has raised concerns that introduction of the practice may slowly eradicate the longstanding principle that Members must be present in the chamber to vote.<sup>121</sup> In its report, the Standing Committee on Procedure noted that Members had emphasised the importance of being physically present in order to hear arguments presented on a given debate and then cast their vote publicly.<sup>122</sup> Some Members also expressed concern that allowing proxy voting would open the floodgates, leading to absences from the Chamber being permitted for a variety of reasons. The whips in the House of Representatives – Mr Kerry Bartlett (Chief Government Whip), Mr Roger Price (Chief Opposition Whip) and Mrs Kay Hull (Chief Nationals Whip), who had convened to discuss the issue of proxy voting separate to the Committee – had previously noted that these concerns could be allayed by limiting the proposal strictly to nursing mothers who were present in Parliament House.<sup>123</sup> The whips also noted that these mothers – aware of their responsibilities as Members – could thereby follow the debate by their own means, and still have their voice heard via another Member.

### 5.2.2 NSW Parliament

The *Constitution Act 1902* does not explicitly prescribe a number of votes to Members of either House.<sup>124</sup> However, in its 2016 *Inquiry into young children accompanying members into the House* the Legislative Council Procedure Committee noted that:

Section 22I of the *Constitution Act 1902* provides that: '*All questions arising in the Legislative Council shall be decided by a majority of votes of the Members present...*'[A] number of other parliaments have taken the view that they are precluded from introducing proxy voting because of similar provisions within their

<sup>120</sup> The definition of 'nursing mother' is not contained in the Committee Report.

<sup>121</sup> House of Representatives Standing Committee on Procedure, [Options for nursing mothers](#), June 2007, p 5.

<sup>122</sup> House of Representatives Standing Committee on Procedure, [Options for nursing mothers](#), June 2007, p 5.

<sup>123</sup> The whips were not in favour of extending the provision to women who bottle fed their infants. See House of Representatives Standing Committee on Procedure, [Options for nursing mothers](#), June 2007, p 6.

<sup>124</sup> Proxy voting is not mentioned in the Standing Orders of the Legislative Council or Assembly. At present, there are standing orders in each of the Houses that require Members to be present in the chamber. For example, SO 178 for the Legislative Assembly states that 'a Member is entitled to a vote in a division if present in the House'.

respective Constitution Acts.

The committee therefore concludes that the use of proxy votes in divisions in the New South Wales Legislative Council is precluded by the requirement that members be present in the chamber in order to cast a vote, and could only be contemplated if the *Constitution Act 1902* was amended.<sup>125</sup>

Whilst the issue was not discussed in the Committee's inquiry, section 32 of the *Constitution Act 1902* creates an equivalent requirement for Members of the Legislative Assembly to be present in the Chamber when voting.<sup>126</sup> It is therefore likely that the implementation of proxy voting in the Legislative Assembly may face a similar challenge.

### 5.2.3 Case study: United Kingdom House of Commons

On 1 February 2018 the United Kingdom House of Commons resolved to allow Members – both male and female – who had recently had a baby or adopted a child to be entitled to vote by proxy.<sup>127</sup> The resolution was a joint proposal of two female MPs – Harriet Harman (Labour) and Maria Miller (Conservative).

The House of Commons Procedure Committee commenced an inquiry into this resolution, delivering its report on 9 May 2018. It recommended that proxy voting ought to be made available members, subject to exceptions (such as during a decision on calling an early election):<sup>128</sup>

We recommend that proxy voting ought to be available to new mothers, new fathers and adoptive parents. The resolution of the House of 1 February 2018 expressly recognised that if proxy voting were available to new parents it should not be compulsory. We strongly agree.

Voting is in every case a personal decision for a Member, who is responsible to constituents for the exercise of a vote. Similarly, the entitlement to a proxy vote, and to its use, will be personal. There will be circumstances where eligible Members consider it is not appropriate to use proxies. In such cases they are free to be 'paired' or to vote in person

We recommend that the House consider three options for the categories of business where proxy voting may be used:

- a) Decisions on all items of public and private business;
- b) Decisions on all items of public and private business taken on

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<sup>125</sup> Legislative Council of NSW Procedure Committee, [Inquiry into young children accompanying members into the House](#), Report 9/56, October 2016, p 26.

<sup>126</sup> Section 32, NSW Constitution Act 1902

<sup>127</sup> Hansard, [Baby Leave for Members of Parliament](#), 1 February 2018

<sup>128</sup> House of Commons Procedure Committee, [Proxy voting and parental absence](#), 9 May 2018, p 25

Mondays, Tuesdays, Wednesdays and Thursdays; or

c) Decisions on all items of Government business (that is, all orders of the day on Government bills and all motions moved by a Minister of the Crown).<sup>129</sup>

On 5 July 2018, a debate on the principle of proxy voting in divisions was due to take place in the House of Commons. The Leader of the House, Andrea Leadsom MP stated that this debate would allow the constitutional issues of proxy voting to be discussed before a Government response was given to the Procedure Committee.<sup>130</sup> Due to time pressure, debate of the principle was pulled on the day.<sup>131</sup> At the time of publication, no debate had been rescheduled.

### 5.3 Parental, adoption and surrogacy leave

#### 5.3.1 Issues and limits

All parliaments in Australia currently allow Members to seek a leave of absence at their discretion. It is through this leave provision in the Standing Orders that new parents may be granted paternity leave, and in practice, this provision would also allow members to take leave for adoption and surrogacy. In all Parliaments except the Tasmanian House of Assembly, approval of parental leave is technically dependent on the leave of the House (however this appears to be less required in practice). Since November 2016, the Tasmanian House of Assembly has been the only parliament in Australia to automatically grant women MPs 12 weeks of maternity leave, without the need for leave of absence of the House to be granted.<sup>132</sup>

As with other issues regarding the provision of flexible working conditions for parents in Parliament, the basis for the divergence of views appears to stem from a difference in perception of Parliament an employer. These differing perceptions can be broadly divided into three main camps. The first camp views Parliament as broadly indistinguishable from other employers; arguing that the standing orders adopted by each House should provide conditions for elected Members that are at *least as* flexible as other Australian workplaces. The next argues that Parliament, given its central role in the Australian political system, should set the tone for other employers. On this, it should arguably pursue more flexible practices. The final group perceives Parliament as a sacred institution – akin to a court – with its centrality to the democratic process justifying more restrictive rules on those who serve within it.

<sup>129</sup> House of Commons Procedure Committee, [Proxy voting and parental absence](#), 9 May 2018, p 24

<sup>130</sup> House of Commons Library, [Proxy voting in the House](#), *Research Briefings*, 2 July 2018

<sup>131</sup> Hansard, [Points of Order](#), 5 July 2018, p 547

<sup>132</sup> Hodgman W, [New standing orders to support women welcomed](#), *Media Release*, 15 November 2016.

Parliaments across the world vary in how they approach maternity leave. The maternity leave provisions of the Canadian House of Commons were recently considered by the Standing Committee on Procedure and House Affairs.<sup>133</sup> According to the Committee report, members of parliament do not receive federal parental leave benefits because they do not pay into Employment Insurance, requiring them to use sick leave to take time away from the House after having a child.<sup>134</sup> Members may also have their annual sessional allowance cut if they are absent from the House for more than 21 days. Under section 57(3) of the *Parliament of Canada Act*, absences due to public or official business, or illness do not count towards the 21 days of permitted leave, yet absences related to parental leave currently do.<sup>135</sup> The Canadian Government has since confirmed that it will bring forward amendments to the *Parliament of Canada Act* to “provide for parliamentarians to take maternity and parental leave”.<sup>136</sup>

Unlike the Canadian Parliament, the United Kingdom House of Commons does not have a formal parental leave requirement. Rather, Members will approach their Party Whips who may use their discretion to grant parental leave. Figure 9 includes a quote from the All-Party Parliamentary Group on Women in Parliament (WIP APPG), which released a report in 2014 titled “Improving Parliament”.<sup>137</sup>

#### Figure 9: Excerpt from WIP APPG Report

Witnesses described...a feeling of going to the Whips office [and feeling] forced to beg for ‘special treatment’ due to their personal circumstances. By formalising provisions through a cross party agreement as to the circumstances in which MPs are entitled to leave, whether for reasons of parenthood, caring, sickness or bereavement, we believe Parliament would signify an openness to a wider pool of candidates, both men and women.

### 5.3.2 NSW Parliament

Along with the majority of parliaments in Australia, under a standing order in both the NSW Legislative Assembly and Legislative Council, leave of absence from duties for parental leave can be granted by a motion moved without notice and determined by a vote of the House.<sup>138</sup> This provision has also been used to grant members leave on the basis of

<sup>133</sup> Standing Committee on Procedure and House Affairs, [Support for Members of Parliament with Young Children](#), Report No 48, November 2017

<sup>134</sup> Standing Committee on Procedure and House Affairs, [Support for Members of Parliament with Young Children](#), Report No 48, November 2017, p 4

<sup>135</sup> Section 57(3), *Parliament of Canada Act*

<sup>136</sup> Leader of the Government in the House of Commons, [Response to the 48<sup>th</sup> Report of the Standing Committee on Procedure and House Affairs](#), 29 March 2018

<sup>137</sup> All-Party Parliamentary Group Women in Parliament, [Improving Parliament Final Report](#), United Kingdom House of Commons, July 2014, p 26

<sup>138</sup> Standing Order 28 of the Legislative Assembly states:  
**28. Leave of absence**

health issues.<sup>139</sup>

According to Hansard, the formal leave provisions in the Standing Orders have only been used three times since the commencement of the 56<sup>th</sup> Parliament in 2015 – twice for maternity leave in the Legislative Assembly and once for health reasons in the Legislative Council.<sup>140</sup> Rather than using these provisions, anecdotal evidence suggests that a Member will approach their Party Whip to advise that they will be absent from duties for a set period.

### 5.3.3 Case study: Danish Parliament

In Denmark, any member of the Danish Parliament may be granted a leave of 12 months in cases of pregnancy, child birth or adoption.<sup>141</sup> During this leave of absence, the Member will be temporarily replaced by a substitute, who will act in the Member's place until the Member informs the Speaker in writing of their return.<sup>142</sup>

The use of substitute members is provided for in Danish electoral law,<sup>143</sup> under sections 84 and 92 of the *Folketing (Parliamentary) Elections Act*.<sup>144</sup> Section 84(1) states:

The Minister for Economic Affairs and the Interior shall prepare a list of substitutes. The list shall state the candidates who were not elected but who are entitled to join the Folketing as substitutes, cf. section 92

Section 92(1) states:

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A motion may be moved at any time, without notice, amendment or debate, for a Member to be granted leave of absence. Such motion shall state the cause and the period, not exceeding the remainder of the current session.

Standing Order 63 of the Legislative Council states:

#### **63. Leave of absence**

- (1) The House may by motion on notice stating the cause and period of absence give leave of absence to a member.
- (2) A member who has been granted leave of absence is excused from service in the House or on a committee for the period of the absence.
- (3) A member will forfeit leave of absence by attending in the House or a committee before the expiration of the leave.

<sup>139</sup> Barham J, [Ms Jan Barham Resignation](#), *NSW Parliamentary Debates*, 11 October 2016, p 64

<sup>140</sup> Parker J, [Member for Newtown](#), *NSW Parliamentary Debates*, 2 June 2016, p 43; Roberts A, [Mrs Tanya Davies, Member for Mulgoa](#), *NSW Parliamentary Debates*, 25 August 2016, p 42, Barham J, [Ms Jan Barham Resignation](#), *NSW Parliamentary Debates*, 11 October 2016, p 64

<sup>141</sup> Standing Order 41(4), [Standing Orders of the Danish Parliament](#), published July 2016

<sup>142</sup> Standing Order 41(7), [Standing Orders of the Danish Parliament](#), published July 2016

<sup>143</sup> Section 31(4) of the *Constitutional Act of Denmark* states that "The Elections Act shall provide rules governing the election of substitutes and their admission to the Parliament, and also rules for the procedure to be adopted where a new election is required". See [The Constitutional Act of Denmark of June 5th 1953](#)

<sup>144</sup> Sections 84, 92, [Folketing \(Parliamentary\) Elections Act](#)



A substitute shall enter the Folketing as a Member when a Member of the Folketing ceases to be a Member, and in all other respects according to the rules thereon laid down in the standing orders of the Folketing.

## 5.4 Family friendly hours

### 5.4.1 Issues and limits

The IPU has identified “family-friendly” working hours as a key measure of a parliament’s “gender-sensitivity”. Moreover, it has emphasised that the issue affects both men and women MPs. The definition of “family friendly” working hours in the parliamentary context is difficult to determine. Whilst Members spend time in their electorate during non-sitting weeks, the phrase is generally used when referring to the long hours associated with sitting days.

Adjustments to make a parliament’s hours more family friendly may take a number of forms. It may include changing of the order of business so that important business is scheduled close together. This approach was taken by the Canadian House of Commons, which readjusted its Order of Business to schedule votes on Government legislation directly after Question Time.<sup>145</sup>

Parliaments may also adjust their sitting calendars to work better with school holidays or to minimise the occurrence of long sitting days. The Parliament of South Africa schedules its sitting days to match the school calendar so that parliamentarians are either in recess or have constituency time when students are on vacation.<sup>146</sup> Debates also finish much earlier in the evening to accommodate parliamentarians with families.<sup>147</sup>

### 5.4.2 NSW Parliament

The sitting week for both NSW Legislative Assembly and Legislative Council takes place between Tuesday and Thursday, as set out by their respective Standing Orders.<sup>148</sup> The sitting hours for both Houses during the 56<sup>th</sup> Parliament are set out in Table 8.<sup>149</sup>

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<sup>145</sup> Leader of the Government in the House of Commons, [Response to the 48<sup>th</sup> Report of the Standing Committee on Procedure and House Affairs](#), 29 March 2018

<sup>146</sup> Inter-Parliamentary Union, [Equality in Politics: A Survey of Men and Women in Parliament](#), 2008, p 72

<sup>147</sup> Inter-Parliamentary Union, [Equality in Politics: A Survey of Men and Women in Parliament](#), 2008, p 73

<sup>148</sup> NSW Legislative Assembly, Standing Order 97, [Consolidated Standing and Sessional Orders of the Legislative Assembly](#); NSW Legislative Council, Sessional Order 1, [Sessional Orders of the 56<sup>th</sup> Parliament](#)

<sup>149</sup> Note that in practice, the Legislative Council only sits from Tuesday-Thursday apart from Budget Estimates.

**Table 8: Sitting hours for the 56<sup>th</sup> Parliament of NSW**

	Legislative Assembly		Legislative Council	
	Start of sitting day	End of sitting day	Start of sitting day	End of sitting day
<b>Monday</b>			11:00am	Until concluded
<b>Tuesday</b>	Speaker takes the chair at 12:00pm	At the conclusion of Private Members' Statements.	2:30pm	Until concluded
<b>Wednesday</b>	Speaker takes the chair at 10:00am	At the conclusion of Private Members' Statements.	11:00am	Until concluded
<b>Thursday</b>	Speaker takes the chair at 10am	The House shall adjourn without motion until the next sitting day after the completion of Private Members' Statements	10:00am	Until concluded
<b>Friday</b>			11:00am	Until concluded

Prior to the 55<sup>th</sup> Parliament, the Legislative Assembly had sat from Tuesday-Friday. This changed on 14 February 2012 when the house adopted its new Sessional Orders, which removed Friday sittings from the parliamentary calendar. Whilst no mention was made of the “family friendly” aspect of this decision, in her report *The Good Parliament* Professor Sarah Childs notes that removing Friday sitting:

Guarantees a weekday day for constituency representation, which potentially reduces weekend work commitments for the MP (bolstering MPs and MPs' families)<sup>150</sup>

The Legislative Council also – via adoption of sessional orders – underwent a significant change to its routine of business in 2011, shifting from a five day sitting calendar to four days.<sup>151</sup> Described as “a sitting pattern that differs considerably to that under which the House has operated for several sessions of

<sup>150</sup> Childs S, *The Good Parliament*, July 2016, p 29

<sup>151</sup> Note that although sessional orders prior to this change had officially provided for a five day sitting week, it was extremely rare for the House to sit on Monday and Friday. See Legislative Council Procedure Committee, *Report relating to private members' business and the sitting pattern*, 17 June 2011, p 14.



Parliament”,<sup>152</sup> this new pattern was eventually removed from the sessional orders. This was in part due to the adverse effect on country and regional Members – an issue also raised in the Queensland Parliament case study at [5.4.3]. On this point, the Legislative Council Procedure Committee noted in 2011:<sup>153</sup>

...[Of] the current members of the House, 20 live in country or regional areas. On weeks when the House rises at 4.00 pm on Friday afternoon, due to the lack of availability of flights, some members have been unable to travel until Saturday morning. In addition, these members have been required to return to Sydney on Sunday night in order to be available for parliamentary commitments on Monday morning and for the sitting of the House at 2.30 pm that day. Consequently, on those weekends, members have very little time available for constituency, community and family responsibilities.

In 2018, the issue of unpredictable sitting hours and late sitting nights remains unresolved in NSW Parliament, with both Houses sitting late on numerous occasions during the 56<sup>th</sup> Parliament.

#### 5.4.3 Case study: Queensland Parliament

On 15 February 2018, the Queensland Legislative Assembly voted to adopt new Sessional Orders. One of the key changes under these Sessional Orders was the introduction of “Automatic Adjournments”; that is, defined end times for sitting days. Under the new Sessional Orders sittings will finish at 7.30pm on Tuesday and Wednesday and 6.30pm on Thursday, with committee meetings moved to Mondays.<sup>154</sup> In supporting the new Sessional Orders, the Minister for Transport and Main Roads Mark Bailey framed the changes as one of practicality, stating:

It is the 21st century. This parliament is a workplace and it should be family friendly. We should not be having ridiculous late-night debates until two in the morning...This is sensible reform—three full days of debate and moving the parliamentary committee meetings to Monday. It is not exactly earth-shattering; it is just common sense and sensible.<sup>155</sup>

In expressing her support for the changes, the Minister for Innovation and Tourism Industry Development and Minister for the Commonwealth Games Kate Jones directly referred to the effect on women:

This idea that we should not provide family friendly working hours is prohibitive

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<sup>152</sup> Legislative Council Procedure Committee, [Report relating to private members' business and the sitting pattern](#), 17 June 2011, p 14.

<sup>153</sup> Legislative Council Procedure Committee, [Report relating to private members' business and the sitting pattern](#), 17 June 2011, p 16.

<sup>154</sup> Queensland Legislative Assembly, Sessional Order 1, [Sessional Orders of the Queensland Legislative Assembly](#)

<sup>155</sup> Bailey M, [Queensland Parliamentary Debates](#), 15 February 2018, p 125

to many people who would choose to come into this House. We need sessional orders and parliamentary rules that make parliament inclusive and enable more people to come here. We want more women in this parliament—at least on our side of parliament we do...We want to make sure that it is inviting for as many people from different backgrounds to come into this parliament and represent our community.<sup>156</sup>

Whilst the Sessional Orders were eventually agreed to, their passage was not without debate. Whilst many Members supported the introduction of defined finishing times, some Members argued that it was not unreasonable to expect parliamentarians to work longer hours. Jarrod Blejje, Member for Kawana, stated:

If that means that a minister, who is paid over \$330,000 a year, has to stay past six o'clock at night, I think they should do that. Where else do they have to go? If a minister is whingeing that they get \$350,000 a year but they want to go home and tuck themselves into bed at six o'clock at night and not debate these sorts of things, that is their problem.<sup>157</sup>

Others argued that the new Sessional Orders made it harder for regional members, with the Leader of the Opposition stating:

Family friendly what? Seriously! There are major issues with the changes to these sessional orders... they have made the week of parliament completely unfriendly for everyone who is from outside of Brisbane and who has to travel to Brisbane. They will now have to leave their family on a Sunday, not those members over there who live in inner-city Brisbane. We will have to leave our families on a Sunday...It is hard enough to be away from our families without having to extend it to a whole week<sup>158</sup>.

## 5.5 Childcare facilities

### 5.5.1 Issues and limits

Childcare facilities can take a variety of forms. Formal childcare facilities – such as those offered by the Capital Hill Early Childcare Centre at Parliament House in Canberra – may be offered to members and parliamentary staff on parliamentary grounds. They are usually closed to the public and may be open longer hours than usual childcare facilities, based on the length of sitting days.<sup>159</sup> According to Professor Child, these types of facilities:

...symbolise that Parliament takes the needs of its Members and staff seriously, and signal to the outside world that, just like other “best practice” employers, it

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<sup>156</sup> Jones K, [Queensland Parliamentary Debates](#), 15 February 2018, p 140

<sup>157</sup> Blejje J, [Queensland Parliamentary Debates](#), 15 February 2018, p 125

<sup>158</sup> Leader of the Opposition, [Queensland Parliamentary Debates](#), 15 February 2018, p 139

<sup>159</sup> According to its [website](#), the Capital Hill Childcare Centre at Parliament House is open from 7.30am-9.00pm on parliamentary sitting days and 8.00am-6.00pm on non-parliamentary sitting days.

values parents amongst its workforce and will act practically to support them.<sup>160</sup>

Parliaments may also provide ad hoc childcare facilities for external visitors to parliament, either in conjunction or separate to facilities provided to Members. The Scottish Parliament provides a crèche which may be used by visitors to Parliament free of charge, for a stay of up to four hours.<sup>161</sup> Users of this kind of facility may include those visiting Parliament House as part of a committee inquiry, as well as members of the public attending events hosted on-site. Professor Childs notes that these “externally facing” crèches:

[...have] the potential to...affect the makeup of members of public visiting Parliament, those attending in a political capacity and on occasion, Members. The provision of a crèche has in addition the potential to be hugely symbolic. The Commons would be presenting itself as an exemplar of an open, inclusive and welcoming institution.<sup>162</sup>

### 5.5.2 NSW Parliament

The NSW Parliament opened its ‘Parents Room’ on 11 May 2017, providing a space for MPs and parliamentary staff with young children.<sup>163</sup> The room features a separate sleeping area with cots and change tables, along with a larger play area featuring children’s toys and books. Users are also given access to kitchen facilities and a workstation with computer to allow them to work while supervising their children. The opening of the Parents Rooms represents the first time that Members of NSW Parliament have been provided with a dedicated space to care for their children. According to the NSW Department of Parliamentary Services, positive feedback has been provided by a small number of members since the Room’s opening, with Members reporting that they use the facility regularly. They also stated their appreciation of the Presiding Officers’ for providing a safe and well-resourced facility for the care of their children. An assessment of this room was also recently undertaken by the Australian Breastfeeding Association, resulting in the successful renewal of Parliament’s accreditation as a Family/Friendly Breastfeeding Workplace.

### 5.5.3 Case study: Scottish Parliament

In 2003, a crèche opened within the grounds of the Scottish Parliament. According to then-Presiding Officer, the opening of the Holyrood crèche was unique in that the service would be available to MPs and parliamentary staff on an ad hoc basis, as well as visiting members of the public.<sup>164</sup>

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<sup>160</sup> <sup>160</sup> Childs S, *The Good Parliament*, July 2016, pg 23

<sup>161</sup> The Scottish Parliament, [The crèche – General information and conditions of use](#)

<sup>162</sup> Childs S, *The Good Parliament*, July 2016, pg 23

<sup>163</sup> K Munro, [Speaker presides over parents' room in a first for parliament house](#), Sydney Morning Herald, 11 May 2017

<sup>164</sup> The Scotsman, [Parliament creche only tots up 3 daily](#), 12 February 2005

The crèche remains open in 2018. In previous years, the crèche had been subject to some negative criticism in the media for its low attendance levels.<sup>165</sup> This prompted discussion about its future appearance, including whether it should be converted into a nursery primarily for Members and staff. However, in response to this, a member of the Scottish Parliamentary Corporate Body (SPCB) noted that this would require:

...different ratios of staff to children and some physical changes to the building, because of the requirements to have outdoor space for the running of a nursery. There would also have to be an increased level of structured learning and development. That is the main difference between nursery provision and a crèche, which is primarily a childcare facility.<sup>166</sup>

Whilst not addressing attendance levels directly, the SPCB member noted that the crèche has proven successful in achieving its goal of facilitating an open and accessible Parliament, with 85% of crèche users being children of people visiting the parliamentary estate.<sup>167</sup>

## 5.6 Other initiatives

### 5.6.1 Job sharing

The concept of “job sharing” is broadly defined as:

...a form of flexible working which enables two employees to voluntarily share the responsibilities and duties of one full-time job. Pay, benefits and leave entitlement for job sharing are allocated on a pro rata basis.<sup>168</sup>

Whilst there has been considerable growth in flexible work opportunities throughout other workplaces,<sup>169</sup> the idea of “job sharing” between members of parliament is a relatively novel concept.<sup>170</sup> It has seen most discussion within the United Kingdom, where as early as 1999, a candidate for the Scottish Parliament sought to stand for election on the basis of a job-share arrangement.<sup>171</sup> Since this time, candidates from a variety of parties have discussed the idea.<sup>172</sup> Current co-leader of the Green Party of England and Wales Caroline Lucas raised the issue

<sup>165</sup> The Scotsman, [Parliament creche only tots up 3 daily](#), 12 February 2005

<sup>166</sup> Dugdale K, [Scottish Parliamentary Debates](#), 8 March 2018, p 44

<sup>167</sup> Dugdale K, [Scottish Parliamentary Debates](#), 8 March 2018, p 44

<sup>168</sup> Cabinet Office, *Civil Service Employee Policy: guide to job sharing*, (2014)

<sup>169</sup> The United Kingdom Advisory, Conciliation and Arbitration Service’s (ACAS) 2004 Workplace Employment Relations Survey found that job sharing was available to 41 per cent of employees, up from 31 per cent in 1998.

<sup>170</sup> G Hinsliff, [Judges, soldiers, MPs, vicars – can job-sharing work in any field?](#), The Guardian, 3 December 2016

<sup>171</sup> Campbell R and Cowley P, The representation of women in politics, addressing the supply side: Public attitudes to job-sharing parliamentarians, *British Politics*, (2014) 9, p 431

<sup>172</sup> In 2015 the Liberal Democrat election manifesto committed the party to ‘establish[ing] a review to pave the way for MP job-sharing arrangements’

back in 2010, stating:<sup>173</sup>

“I’d like to see the law changed to allow candidates for parliament to stand as job shares. Nothing would do more to open up politics to women. Now I know the establishment will pour scorn on the idea and say it’s ideas like that which make us unelectable. Fine. Let them. But I also know that this, too, is an idea whose time will come.”<sup>174</sup>

The issue re-emerged in 2012, when Labour MP John McDonnell introduced the *Representation of the People (Members’ Job Share) Bill*,<sup>175</sup> proposing that the Parliamentary Constituencies Act 1986 be amended to allow two persons to “present themselves jointly for election to Parliament on the basis that if elected, they will share the representation of the constituency between them”.<sup>176</sup> The Bill did not proceed beyond its First Reading and was met with considerable opposition, with one member of the Conservative party stating:

The [Representation of the People (Members’ Job Share) Bill] is supposedly about increasing diversity. I do not accept that as a middle-aged white male I am unable to represent others who do not fit that description, be they female, from an ethnic minority, gay or disabled. It is nonsense to suggest that the composition of this House must exactly mirror the composition of the United Kingdom. I very much doubt that someone such as Winston Churchill would have ticked many boxes for diversity, and yet few would dispute that he spoke for the whole of our nation at the most difficult of times. We do not increase true representation simply by having people who look like others...

The proposal starts off as a politically correct attempt to increase diversity, but ends up as a potentially dangerous attempt at constitutional meddling that would break the historical link between an MP and their constituency.

Most recently, two members of the Green Party – Sarah Cope and Clare Phipps – submitted joint nomination papers for the United Kingdom General Election in 2015. Ms Cope was a single mother with a child on the autism spectrum, whilst Ms Phipps suffered from a sleeping disorder and was disabled. Recognising that they were not physically capable of undertaking the range of obligations which a Member of Parliament would have to undertake, they proposed to present themselves to the electorate of Basingstoke as a single candidate on the basis of a job share.

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<sup>173</sup> Note that Caroline Lucas currently job shares in her role as Co-Leader of the Green Party of England and Wales.

<sup>174</sup> Bowcott O, [Green party hopefuls lose high court bid for MP job share](#), The Guardian, 28 July 2015

<sup>175</sup> [Representation of the People \(Members’ Job Share\) Bill](#)

<sup>176</sup> Clause 2(4), [Representation of the People \(Members’ Job Share\) Bill](#)

This joint-nomination was ruled as invalid by the Returning Officer, a decision upheld by the High Court. In deciding as such, the High Court based its decisions on the non-justiciability of the matter, implying that it was the role of Parliament to debate and determine the issue and legislate accordingly.<sup>177</sup>

A 2017 report titled “Reflections on the possibility and practice of MPs job-sharing” was released by the Fawcett Society, which canvassed a number of the concerns surrounding the concept.<sup>178</sup> These included:

- Job-sharing arrangements, despite being premised on the idea of increasing diversity, could hypothetically permit “two heterosexual white middle-aged barristers” to represent an electorate.<sup>179</sup> This argument implies that the job sharing could entrench – or even worsen – the status quo in a parliament’s composition, unless the enabling legislation required that MP job-shares be established on particular grounds, such as disability or caring responsibilities<sup>180</sup>
- Job sharing may undermine the ‘historic’ individual constituent/MP relationship, reducing accountability to the electorate. On this point, former political journalist James Kirkup states that:
 

The relationship between an MP and a voter really is the foundation of our democratic system. Preserving that relationship is more important than anything else, even a more family-friendly Parliament.<sup>181</sup>
- Job sharing may also raise logistical issues within parties, posing challenges when it comes to promoting a single MP from a job-share constituency to the frontbench. The idea is also subject to the accusation that job-sharing MPs may be of lesser quality than full-time MPs, given

**Figure 10: Rachel Reeves MP on the concept of job-sharing for parliamentarians:**

[Rachel] Reeves thinks ministerial posts could be shared relatively easily, but worries about how an MP job-share would cope if its two halves disagreed over an unexpected issue, such as the vote on bombing Syria:

*“For me, that was an incredibly difficult decision. I had friends who politically I’m very close to who voted the other way. I’m not sure how you agree that in advance. Do you just say: ‘Well, it’s a Wednesday, so that’s Rachel’s day to vote?’ That doesn’t feel right. I personally think it’s incredibly difficult.”*

<sup>177</sup> The Fawcett Society, [Reflections on the possibility and practice of MPs job-sharing](#), September 2017, p 20

<sup>178</sup> The Fawcett Society, [Reflections on the possibility and practice of MPs job-sharing](#), September 2017, p 33

<sup>179</sup> D Nuttall, Hansard, 20 Nov 2012, col.476.

<sup>180</sup> The Fawcett Society, [Reflections on the possibility and practice of MPs job-sharing](#), September 2017, p 34.

<sup>181</sup> Kirkup J, [MPs should never be allowed to job-share. It threatens democracy](#), *The Daily Telegraph* (UK), 28 July 2015



that their experience will be more limited and as such, they may fail to grasp procedures and ways of the House.

Despite these challenges, a 2014 *British Politics* study suggested that the public may not view the idea to be as contentious as is suggested.<sup>182</sup> Rather, the view of the public towards the concept is summarised as “agnostic”. On this point, the authors stated:

[The] research found no great demand for the introduction of job-sharing candidates but neither did it detect overwhelming opposition; just over one third of respondents were in favour of job-sharing, or said they would support job-share candidates; just over a third took the opposing view; and around a quarter said they did not know. When reasons for allowing job-shares were also given to the survey respondents – for example, to allow more women or disabled people to stand – support rose from 37 percent with no explanation, to between 42-48 percent (and around one third who would not support the idea).

Responses to job-sharing candidates were notably not uniform; younger people were more supportive than older respondents, and women were more in favour than men. Critically, when asked to choose between job-sharing candidates in a hypothetical election survey respondents appeared to make judgements on the basis of the candidates offered, rather than automatically rejecting job-share set-ups out of hand.<sup>183</sup>

### **5.6.2 Other financial support**

In recognition of the additional family duties held by Members with young children, parliaments may also extend financial support to Members by providing allowances for their spouse or support person to travel with the Member. For example, in December 2015, the Commonwealth Remuneration Tribunal inserted clause 3.17A into its Principal Determination allowing further support for members or senators currently breastfeeding. Clause 3.17A remains in the current Determination and states (with clause 3.16 provided for context):

3.16 In addition to the entitlement described in clauses 3.13, 3.14 and 3.15, all senators and members (including those from the ACT) are entitled to be accompanied or joined at Commonwealth expense on a total of 3 business class return inter-state trips each year by a person specified in clause 3.8. The senator or member may choose which combination of a spouse or nominee, dependent child or designated person may access this entitlement.

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<sup>182</sup> The study drew on a series of surveys, all run for the authors by YouGov. All the respondents were drawn at random from the YouGov Plc UK panel of some 350 000+ adults who had agreed to take part in such surveys. Figures were then weighted to be representative of all UK adults (aged 18+), using YouGov’s standard weighting. See Campbell R and Cowley P, The representation of women in politics, addressing the supply side: Public attitudes to job-sharing parliamentarians, *British Politics*, (2014) 9, p 431

<sup>183</sup> Campbell R and Cowley P, The representation of women in politics, addressing the supply side: Public attitudes to job-sharing parliamentarians, *British Politics*, (2014) 9, p 431

3.17A Once the interstate trips under clause 3.16 have been fully utilised, a senator or member who is the mother of a dependent child up to 12 months of age and who is travelling interstate at Commonwealth expense on parliamentary, electorate or official business may be accompanied or joined by her spouse, nominee or designated person, to provide support in relation to that child. Travel for this purpose is to be at economy class.<sup>184</sup>

The NSW Parliamentary Remuneration Tribunal (PRT) currently provides for a certain amount of travel by a Member's "approved relative", which may include one person who meets any of the following criteria:<sup>185</sup>

- The wife or husband of the Member; or,
- A person living with the Member in a domestic relationship as defined in the *Property (Relationships) Act 1984*; or,
- An immediate family member of the Member (parent, siblings or children who are not minors i.e. below 16 years of age) who is nominated as an approved relative.
  - Members with dependent children may nominate one or more of those children as approved relatives. A 'dependent child' means a person under 16 years of age in the care of the Member who is legally responsible (alone or jointly with another person) for the person's day-to-day care, welfare and development.

Under the most recent PRT determination, a Member may use their entitlements to meet official costs of the approved relatives and/or staff employed by the Parliament when that expenditure is in connection with official parliamentary duties.<sup>186</sup>

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<sup>184</sup> Commonwealth Remuneration Tribunal, [Determination 2017/13 Members of Parliament Entitlements](#), p 8

<sup>185</sup> NSW Parliamentary Remuneration Tribunal, [2018 Annual Determination PRT](#), 16 May 2018, p 20.

<sup>186</sup> NSW Parliamentary Remuneration Tribunal, [2018 Annual Determination PRT](#), 16 May 2018, p 25



## **6. CONCLUSION**

The continuously low levels of women's representation in Australian politics has reached a point where they will remain under significant scrutiny, until an acceptable increase occurs.

The actions of parliament as an institution have been recognised as fundamental to increasing the representation of women in Australian politics. Whilst a number of parliaments have adopted strategies to increase their "gender-sensitivity" in the hope of appealing to more women, many Australian parliaments still have a long way to go. In particular, the NSW Parliament currently lags behind its counterparts in the Commonwealth and in Queensland, which respectively, have permitted proxy voting and nursing of children in the chamber, and introduced family friendly hours. These measures are strong moves in the direction of workplace flexibility, benefitting those members caring for young children, who, more often than not, are women.

At the same time, political parties have come under increased scrutiny due to the critical role they play in determining candidates to stand for election. Moreover, the strategies employed by these parties – both on the supply and the demand side – have been questioned, with calls for the implementation of gender quotas resonating across the entire political spectrum.

With the NSW State Election due to take place in March next year, the actions taken by NSW political parties to increase their female representation will be put to the test. Moreover, it is likely that increased attention will be focused on the NSW Parliament itself, as the question of whether enough has been done to increase its "gender sensitivity" gains momentum.