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**Addressing Violence and Harassment in Canada's Senate: Critical
Actors and Institutional Responses**

Tracey Raney
Associate Professor
Ryerson University

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Introduction

The global movements of #MeToo, #TimesUp, and #BlackLivesMatter have brought the issues of gender and race-based violence into the public domain. The realm of politics is no exception. Over the last several years (and predating #MeToo), Canadian politicians and staffers at all levels of government and from all political stripes have faced sexism, racism, homophobia, harassment, and threats of violence from members of the public and from their colleagues. Since the 2019 federal election, this has included an armed trespasser apprehended on the grounds of Rideau Hall who made threats against Prime Minister Justin Trudeau, the vandalism of Minister Catherine McKenna's constituency office window which was spray-painted with a vile, misogynistic word, and the street harassment of NDP leader Jagmeet Singh that was widely shared on social media. Although white, heterosexual, cisgender male politicians and staffers also experience violence, women, Black, Indigenous and persons of colour (BIPOC) and members of the LGBTQ+ community are disproportionately more likely to be on the receiving end of such acts and threats both on social media and in real life.

While previous research has examined the Canadian House of Commons' approach to dealing with sexual harassment (see Collier and Raney 2018a; 2018b), to date little academic attention has been paid to these issues in the Senate of Canada. The objective of this study is to examine how violence and harassment have been addressed by Canada's Senate during the 42nd and 43rd Parliaments (2015-today). Gendered research on the Canadian Senate is timely. In addition to its more active role in the legislative process, gender representation in the Senate has steadily increased over time: as of February 2021, 49% of its seats were held by women.¹ This is not only the highest

percentage of women in the upper house historically, it is also the highest of any federal or provincial legislature across the country. The Senate now ranks third in its percentage of women in an upper house worldwide.²

This representational milestone is remarkable when we consider that the Senate has been an elite institution comprised of predominately white, rich men historically.³ Less than a century ago, Canadian women were not permitted to sit as senators because they were not legally considered “persons.” After the Person’s Case brought forth by the “Famous Five” found that women were legally “people”, the first white woman, Cairine Wilson, was appointed to the Senate in 1930. It would take another fifty-four years for the first Black woman to sit in the Senate when Anne Cools was appointed in 1984, while Senator Thelma Chalifoux was the first Métis woman Senator appointed in 1997.

The study’s broader goal is to gain a better understanding of how feminist actors have sought to achieve gender equality gains (e.g. an anti-harassment policy) in Canada’s upper house. Here I draw upon critical actors and Feminist Institutional research, the former of which suggests that while some women may represent women’s interests, others may not. Rather than assume that a “critical mass” of women will automatically produce positive gendered outcomes, researchers are encouraged to look at *critical actors* within institutions and the ways in which they mobilize support for, and persuade other actors to enact, gendered change (Childs and Krook 2009).

Critical actors are further enabled or constrained by myriad institutional factors, including pre-existing formal (e.g. codes and policies) and informal (e.g. norms, practices, and customs) rules. Feminist Institutional (FI) research seeks to explain and analyse these rule configurations through a gendered lens, looking at how older, “masculinized”

rules and norms have historically disadvantaged women (Waylen 2014; Collier and Raney 2018b). FI research points out that new gendered rules are not created upon blank slates but rather, are “layered” or “nested” on top of pre-existing rules that have historically privileged white male actors (Chappell 2014). The Canadian Senate’s efforts to address violence and harassment thus offer a unique opportunity to study critical actors in the context of an historically white, male dominated institution that has recently achieved numerical gender-parity.

This study asks two research questions: 1) how have institutional actors sought to enact a new anti-harassment policy in the Senate workplace; and, (2) how has the institution responded to this problem to date? To address the first question I conduct a discourse analysis of inquiry debates on the Senate’s anti-harassment policy during the 42nd and 43rd (2015-2021) Parliaments. Analysing these speeches, I find that institutional actors (mostly women, but some men) were successful in shining a spotlight on harassment in the Senate well beyond the height of the 2017 #MeToo movement, and that they offered concrete recommendations on how the Senate should remedy this serious problem.

To address the second research question, I conduct a gendered policy analysis of the *Senate Harassment and Violence Prevention Policy* tabled on February 16 2021.⁴ Although improved from the Senate’s existing 2009 anti-harassment policy, I find that the 2021 policy contains shortcomings that do not sufficiently address many of the recommendations raised by critical actors in their inquiry speeches. Gaps include a lack of public transparency and the continued reliance upon old practices and rules, such as non-disclosure agreements, short-term employment contracts, and parliamentary

privilege. Together, these shortcomings are likely to enable senators and the institution to avoid full accountability on issues related to harassment and violence. Although a positive step forward, I argue that broader and deeper changes beyond the 2021 policy are needed in order to make the Senate free of harassment and violence, and a more equitable institution overall.

This report is laid out as follows. First, I summarize the global context of violence and harassment in politics, focusing on recent literature on violence against women and politics (VAWIP) and the role of global organizations in developing an international normative framework on VAWIP worldwide. I then offer an overview of violence and harassment in Canadian federal politics, focusing on the Senate. Next, I situate this study within the relevant academic literatures and discuss my methodological approach. The analysis then follows, with the final section offering some concluding thoughts.

A Global Problem: Violence and Harassment in Politics

A growing body of evidence reveals that sexism and violence against women in politics are global problems (Lovenduski 2014; Krook and Restrepo Sanin 2019; Krook 2018; Krook 2020; Collier and Raney 2018a; Raney *et al.* 2019; Verge 2020). In an oft-cited 2016 report, the Inter-Parliamentary Union found that 82% of women politicians worldwide experienced psychological abuse, while 44% had received rape, death, beating or abduction threats (Inter-Parliamentary Union 2016). Since this international report was published, harassment, threats, and acts of violence have continued in the global North. In the United Kingdom, several high profile cases of sexist and racist threats, as well as acts and threats of violence toward women and black politicians have occurred. The 2016 murder of Labour MP Jo Cox was perceived by many as an act motivated by

gender bias, with British women MPs referring to the incident as an attack rooted in “vitriolic misogyny” (Abbott in Krook and Restrepo Sanin 2019, 12). Two years later, a 2018 Amnesty International report found that Labour MP Dianne Abbott— the first Black woman elected as a British MP— received more abuse than any other woman MP in the United Kingdom (Amnesty International UK 2018). Citing increases in death and rape threats and racist abuse, several British women MPs made the decision not to run again in the 2019 general election (O’Donnell 2019).

In Scotland, a February 2021 report found that women representatives were more likely than their male counterparts to receive death threats, threats of sexual violence, and fears about their personal safety (Wilson 2021). This survey was initiated after a man was arrested and charged with threatening sexual violence against SNP MP Joanna Cherry. That same month, an Australian political staffer reported that she had been raped by a colleague in a Minister’s office in 2019 and that her party had not taken her allegations seriously (Murphy and Remeikis 2021).

In the United States, numerous instances of harassment and threats of violence against women in politics have transpired over the last year, including the 2020 arrest of thirteen men suspected of organizing a domestic terrorist plot to kidnap and murder the Governor of Michigan, Gretchen Whitmer. Members of the “Squad” – comprised of congresswomen of colour in the House of Representatives – Alexandria Ocasio-Cortez, Ilhan Omar, Ayanna Pressley, and Rashida Tlaib – have spoken publicly about the sexist, racist, and/or Islamophobic threats they have received. After Republican congressman Ted Yoho used a sexist slur to describe her in July 2020, Ocasio-Cortez gave a powerful

speech condemning misogyny in American politics, contextualising the problem of violence against women in politics as cultural:

It is a culture of lack of impunity, of accepting of violence and violent language against women, and an entire structure of power that supports that. Because not only have I been spoken to disrespectfully, particularly by members of the Republican Party and elected officials in the Republican Party, not just here, but the President of the United States last year told me to go home to another country, with the implication that I don't even belong in America. The governor of Florida, Governor DeSantis, before I even was sworn in, called me a whatever that is. Dehumanizing language is not new, and what we are seeing is that incidents like these are happening in a pattern. This is a pattern of an attitude towards women and dehumanization of others.

(United States of America 2020).

Threats of violence go straight to the top of US politics. Since the announcement of her nomination to be Vice President of the United States, Kamala Harris —the first Black and first Asian woman to assume the office—has received a barrage of misogynistic, racist attacks online (Tumulty et al. 2020). The January 6 2021 insurrection was further fueled by misogynist, racist threats, with rioters defending a President known for his sexist attacks, and using sexist rhetoric and gendered slurs to describe several women representatives while attacking the U.S. Capitol (Krook 2021).

Violence in politics encompasses not only physical acts and threats, and is much broader. In her ground-breaking comparative book on VAWIP, Krook (2020) develops a typology of violence, which includes physical, psychological, sexual and economic, and she adds a fifth category: semiotic violence. Physical violence includes various kinds of unwelcome contact; psychological violence inflicts trauma on a person's mental state, and can include death and rape threats; sexual violence includes unwelcome sexual advances or comments, while economic violence includes behaviours that deny or restrict

women's access to economic resources, such as staffing or travel budgets. Semiotic violence refers to the ways in which language and images (e.g. 'deepnudes' on the internet) are used to denigrate politically active women. Although not all violence in politics is directed at women, this conceptual framework is useful as it draws attention to the underlying gendered (and racialized) motivations of violence, which are to "exclude women as women from participating in political life" (Krook 2020, 65).

The costs of violence against women and BIPOC individuals in politics are numerous and substantial. On an individual level, victims can experience psychological and physical symptoms, such as lack of sleep, anxiety, and self-esteem problems, as well as post-traumatic stress. Workplaces where violence and harassment are tolerated can also see reduced individual and team morale, greater absenteeism, and higher job dissatisfaction, as well as high employee turnover. In politics, harassment and violence also yield negative consequences for democracy, with those who experience violence less likely to remain in politics, whether as volunteers, staffers, candidates or politicians. Public harassment of politicians on social media also creates a disincentive for those who might consider a career in politics, resulting in a potential loss of talent and a shrinking pool of future decision- and policy- makers.

Internationally, several global organizations have sought to raise awareness about this problem and offer solutions to address it. This includes the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) which Canada ratified in 1981, and the 1993 United Nations *Declaration on the Elimination of Violence Against Women* which urges member states to recognize the need for all women to have access to rights of equality, security, liberty, integrity and dignity of all human beings (The

United Nations 1993). The 1995 *Beijing Declaration and Platform for Action* also identified the need to address violence against women, while the 2030 Sustainable Development Goals calls on all member states to, “ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic, and public life” (The United Nations 2015).

More recently in 2018, the U.N. General Assembly adopted the Special Rapporteur on Violence against Women in Politics’ report, the *Intensification of efforts to prevent and eliminate all forms of violence against women and girls: sexual harassment*, which encourages all:

national legislative authorities and political parties, as appropriate, to adopt codes of conduct and reporting mechanisms, or revise existing ones, stating zero tolerance by these legislative authorities and political parties for sexual harassment, intimidation and any other form of violence against women in politics

(The United Nations 2018).

In June 2019, the International Labour Organization adopted Resolution 190, the world’s first international labour standard to address violence and harassment in the world of work. This resolution recognizes that violence and harassment constitute a violation and abuse of human rights (International Labour Organization 2019). To date, Canada has yet to sign onto this international convention.⁵ These and other global initiatives have helped to create an international normative framework on violence against women in politics which views it as a violation of women’s political rights, along with key action points for prevention by state actors in order to address it expeditiously (Ballington and Borovsky 2019).

Violence and Harassment in Canadian Federal Politics

As in other countries, women, BIPOC, and LGBTQ+ Canadian political actors have been on the receiving end of sexist, racist, and homophobic violence, harassment and threats. In 2014, the problems of sexual assault and harassment were drawn to the public's attention when the media reported that two women NDP MPs had been allegedly assaulted or sexual harassed by two men Liberal MPs. At that time, women politicians and staffers from all political parties on Parliament Hill began speaking out about their experiences of violence, including being called sexist names and touched inappropriately, being sexually assaulted, and being threatened and stalked on social media by members of the public (Daro 2013; Payton 2014; Bueckart 2015; Tasker 2016; Csanady 2016).

These events revealed that the House of Commons had no rules in place to handle complaints of non-criminal sexual harassment. In response, in 2014 the House adopted a new staffing policy, the *House of Commons Policy on Preventing and Addressing Harassment* which applied to all Members of Parliament as employers over their staff and the staff of House and Research Offices. In 2015, the lower house adopted an MP-to-MP Code of Conduct on Sexual Harassment to address non-criminal sexual harassment complaints between MPs. In 2018, the Canadian Parliament passed Bill C-65, *An Act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1*. This bill updates harassment and violence legislation and applies to all federally-regulated workplaces, including Parliament Hill.

In 2020, the lower house announced that additional security measures would be provided for Members of Parliament (MPs), including extra security and the installation of

panic buttons in MPs' homes upon request. Some women politicians – including MP Lenore Zann and Senator Wanda Thomas Bernard – have reportedly spent their own money upgrading their home security systems in order to protect themselves and their families from harassment (Wright Allen 2020). In January 2021, the House's Board of Internal Economy adopted a new policy covering staff and members that aligns with the provisions of Bill C-65.

The Senate's own issues with harassment and violence were made public in 2015, when allegations appeared in the *Toronto Star* that Conservative Senator Don Meredith had had an "inappropriate" relationship with a sixteen year old woman. Similar to the House of Commons, the events surrounding this scandal –which include allegations of sexual misconduct with a sixteen year old woman and the harassment of several Senate employees —revealed that the Senate's existing policies and rules dealing with harassment and bullying were wholly inadequate. Given its far-reaching implications, the Meredith case is worth reviewing here briefly.

After a 2015 confidential "workplace assessment" of Meredith's office was received by the Standing Committee on Internal Economy, Budgets and Administration (CIBA), Senator Leo Housakos requested that the Senate Ethics Officer (SEO) conduct an inquiry into Meredith's behaviour.⁶ Due to several delays this inquiry took two years to complete, and found that the senator had violated the broad obligations of senators to act with dignity and avoid all conduct that may reflect adversely on the Senate as laid out in the *Ethics and Conflict of Interest Code* that applies to senators (Senate Ethics Officer 2017). Based on this inquiry, the Senate's Standing Committee on Ethics and Conflict of Interest for Senators (CONF) recommended to the Senate that Meredith be expelled from the

chamber. Before the Senate could hold its vote, however, Meredith resigned his seat which allowed him to keep his pension and honourable title for life. Following this, in 2017 CONF requested that the SEO conduct a second inquiry, looking into claims that Meredith had harassed or bullied several Senate employees. Due to more delays this second inquiry took another two years to complete, and found credible evidence that Meredith had again violated the general conduct provisions of the Ethics Code in his harassment, sexual harassment, and retaliatory behaviour against several Senate employees. After more than five years, in June 2020 the Senate offered a rare, formal “statement of regret” to Meredith’s alleged victim/survivors, and provided financial compensation of \$498,000 for their harassment and abuse.

These events demonstrate the serious inadequacies of existing Senate policies that deal with harassment, sexism, and racism in the Senate workplace, which include an existing 2009 anti-harassment policy (updated from 1993), and other rules including the Ethics Code and the Rules of the Senate. Beyond this case, staffers have indicated that harassment issues in the Senate are widespread, and require significant policy changes to address them (Mazereeuw 2020a).

Approach to Understanding Debates and Actions on Harassment in the Senate

To analyse the Senate’s efforts to address these problems, this study draws on research on women’s representation theories of critical actors and Feminist Institutionalism. A broad literature explores the relationship between women’s descriptive (numerical) and substantive (policy outcomes) representation (Tremblay 1998; Childs 2006; Childs and Withey 2006; Celis and Childs 2008; Franceschet and Piscopo 2008;

Mackay 2008; Childs and Krook 2009). Rather than assume that a certain threshold or “critical mass” of women will result in positive gender outcomes in legislatures, researchers suggest that what is needed to effect real change are critical actors in positions of institutional power (Childs and Krook 2009). Childs and Krook define critical actors as:

legislators who initiate policy proposals on their own and/or embolden others to take steps to promote policies for women, regardless of the numbers of female representatives. Importantly, they do not need to be women; in some situations, men may play a crucial role in advancing women’s policy concerns....Although critical actors may operate alone, they may also stimulate others to act, setting in motion momentum for policy change...As such, the shape and impact of critical actors is not absolute...
(2009:138-9)

Critical actors (women and men) advocate for “women-friendly policy changes” through “critical acts”, which can include various parliamentary activities, such as introducing legislation, voting, or voicing women’s concerns (Celis and Childs 2008, 421). Such acts depend on: “the willingness and ability of the minority to mobilize the resources of the organization or institution to improve the situation for themselves and the whole minority group” (Celis and Childs 2008, 420).

A focus on critical actors means that rather than ask *when* women make a difference, researchers should evaluate *how* women’s substantive representation occurs (Childs and Withey 2006, 11). Applying this approach to debates on the reduction of taxes on sanitary products in the British House of Commons, Childs and Withey (2006) look at where critical actors were located (ie. backbenches or ministers) and whether they acted individually or collectively to address this issue. Their results show how women Labour MPs were able to “feminize” both the parliamentary agenda and legislation, despite the

relatively low percentage of women in the House of Commons at that time. This study and others show that the relationship between women's descriptive and substantive representation in legislatures is not a direct, causal one, but more likely "probabilistic" (Mackay 2008, 127).

One reason for the uncertain relationship between women's descriptive and substantive representation is because all actors— women and men— must operate within institutions and historical processes that reinforce white, hegemonic masculinities (Chappell 2006; 2014; Mackay *et al.* 2010; Chappell and Waylen 2013; Mackay and Waylen 2014). Feminist Institutional (FI) research emphasises how gender biases are embedded within the daily 'logic' of political institutions in ways that have historically reproduced white, male-dominated norms and rules. This "gendered logic of appropriateness" privileges particular forms of masculinity and male-dominated behaviours and is embedded within most political institutions (Chappell 2006).

In Westminster parliamentary systems, gendered biases can be observed in a variety of formal rules and informal norms and practices, including the lack of sufficient parental leave and on-site child care, holding evening and weekend sittings, and aggressive, adversarial styles of debate where sexist barbs, taunts, shouting and other masculinized styles of communication are viewed as superior forms of parliamentary debate (Lovenduski 2014; Collier and Raney 2018a). These pre-existing rules and practices privilege male/masculinized norms and mean that institutions must be understood as inherently gendered. As Chappell and Waylen (2013, 601) argue, gendered biases are often so deeply engrained within institutions that even if women

achieved numerical parity with men, there is no guarantee they would operate any differently.

The gendered nature of institutions has consequences for actors seeking to adopt new gender reforms. This is because rules are often “nested” or “layered” on top of old (masculinized) rules, making it difficult for new gender reform initiatives to succeed (Waylen 2014, 219). Previous research on the Canadian House of Commons’ MP to MP Code of Conduct on Sexual Harassment identifies a number of deficiencies in the code that allow for partisan influence over the grievance and sanctioning processes, which are likely to reduce the willingness of victim/survivors to file a formal complaint (Collier and Raney, 2018b). Older rules like parliamentary privilege (e.g. the collective right of parliaments to discipline their members and the individual rights of members to free speech during parliamentary proceedings) can also act as constraints on anti-harassment rules, as they can be relied upon to weaken enforcement and discipline procedures (Raney and Collier 2021). As Mackay (2014, 551) argues, rules that challenge traditional power hierarchies function as “gendered liabilities” to male-dominated institutions, making gendered innovation difficult to “stick”. In order for new gendered rules to be effective, critical actors should identify, minimize, and ideally remove all gaps and loopholes that might undermine or dilute their transformative potential (Waylen 2014, 221).

Building on the insights from critical actors and FI research, this study asks two research questions: 1) how have institutional actors sought to enact a new anti-harassment policy in the Senate workplace; and, (2) how has the institution responded to this problem to date? To answer the first question, I consider the ways in which various institutional actors’ ideas and discourses of harassment have framed this issue in the

Senate. For this part of the analysis I draw upon Discursive Institutionalism (DI), which seeks to examine how ideas and discourse: “explain political change (and continuity) in institutional context” (Schmidt 2010, 2). DI research looks at how institutional actors communicate and deliberate within institutions, in order to:

persuade themselves as well as others to change their minds about their institutions, and then to take action to change them, whether by building ‘discursive coalitions’ for reform against entrenched interests in the coordinative policy sphere or informing and orienting the public in the communicative political sphere. Conveying ‘good’ policy ideas through a persuasive discourse helps political actors win elections and gives policy actors a mandate to implement their ideas.

(Schmidt 2010, 16).

Discourse analysis has been applied to sexual harassment debates in other legislatures (see Dalton 2019; Berthet and Kantola 2020; Collier and Raney 2021). In their analysis of sexual harassment in the European Parliament, Berthet and Kantola (2020, 8) examine how ideas and discourses are central to institutional change, and argue that all institutions are “embedded in discursive contexts.”

In this study I conduct a discourse analysis of inquiry debates on a new harassment policy that took place during the 42nd and 43rd Parliaments (2015 to 2021).⁷ Senate inquiry debates are parliamentary procedures whereby any senator may call the attention of the Senate to a particular matter, with the goal of providing information and exchanging views, provided that the matter is not related to any bill or other matter that is currently an order of the day (Senate of Canada, 2020). Unlike other types of debate (e.g. bill debates), inquiries do not require votes and the Senate does not make a decision or express a formal opinion on the matter raised. An inquiry is concluded and dropped from the Order

Paper when no other senator expresses an interest in discussing the matter or adjourns the debate.

Inquiry speeches offer a unique research opportunity to assess the discursive strategies used by institutional actors when they are less constrained by the legislative agenda, as any senator may issue a notice of an inquiry or follow-up on an inquiry in subsequent sittings. Accordingly, inquiries provide individual senators with opportunities to frame a particular policy problem, to coordinate with other senators to draw attention to an issue over a period of time, and to mobilize support for their positions within the institution. These actions are potential strategies feminist critical actors can undertake to enact gendered change (Bacchi 2008). Importantly, an analysis of inquiry debates does not include the entire universe of actors who advocated for a new anti-harassment policy in the Senate. This would include a broader range of feminist actors, such as past and current members of relevant committees and committee witnesses (both internal and external to the institution) involved in deliberating over and drafting the new policy.⁸ Instead, I focus on a *subset* of critical actors who spoke out publicly on the Senate floor on the need for a new harassment policy.

Inquiry debates on a new Senate harassment policy occurred during Senator Marilou McPhedran's *Notice of Inquiry on the Policies and Mechanisms for Responding to Harassment Complaints against Senators* given on May 11th 2017 and Senator Lillian Dyck's *Notice of Inquiry given on December 12 2019 on the Deficiencies or Gaps in Senate Policies (related to harassment and bullying)*. Any senator may rise to speak to these inquiries. In total, this includes ten inquiry speeches given between 2017 and 2021. Using an inductive thematic approach, Hansard transcripts of all speeches were hand-

coded and analysed through an iterative process, with the goal of identifying common themes that emerge across the data. I first read through all of the speeches before coding them, searching for potential underlying themes. I then coded key words, phrases, and ideas in each speech, looking for patterns of recurrence. In order to be considered a theme, a pattern of ideas or concepts must be repeated across the data in a way that “captures and unifies the nature or basis of [an] experience into a meaningful whole...[with] significant concepts that link substantial portions of the data together.” (Nowell et al. 2017, 8).

To answer the second research question, I conduct a content analysis of the Senate’s 2021 harassment and violence policy, looking at how and whether it addresses the recommendations made by inquiry critical actors. Recommendations are coded as instances when a speaker(s) offered a specific solution that the Senate should adopt in order to address harassment/violence. While some speakers offered general suggestions (e.g. the need to change the culture of the institution or to address issues of misogyny and racism broadly), only concrete ‘actionable’ items are coded (e.g. the need for mandatory training or to offer legal support for victim/survivors). Drawing on FI approaches, I also consider the ways in which the 2021 policy can be expected to interact with, challenge, or be undermined by, older Senate rules. Further included in the analyses are relevant parliamentary debates, committee transcripts (where available) and reports, Senate Ethics Officer inquiries, and media reports.⁹ A small number supplementary, semi-structured interviews with a key institutional actors that focused exclusively on the question of harassment in the Senate were also conducted. Interviews occurred between

August 2020 and February 2021, and ranged from 45 minutes to 2 hours in length. All were conducted online due to the global pandemic.

Institutional Critical Actors and Discursive Themes

On May 11th 2017 Senator Marilou McPhedran gave a Notice of Inquiry for a debate on *Policies and Mechanisms for Responding to Harassment Complaints against Senators*. Just days before, Senator Don Meredith had resigned his seat after an Ethics Committee report had recommended he be expelled from the chamber. Over a period of two years (May 2017 to May 2019), nine senators (including McPhedran) resumed debate on this inquiry, eight of whom were women (including one Black-identified woman, one woman of colour and one white man).¹⁰ In a separate inquiry on the new anti-harassment policy, in December 2019 Senator Lillian Dyck – the Senate’s first First Nations and first Canadian-born senator of Chinese descent – gave notice of an inquiry in order to draw attention to the Senate’s proposed policy insufficiencies. Table 1 includes biographical information on these ten actors (nine women and one man). Almost all (nine of ten) of their Senate biographies indicate previous professional expertise in gender, race, Indigenous or human rights issues. Inquiry participants were also relative newcomers to the institution, with an average years of service of 4.8 (relative to 7.42 years of service for all Senators).¹¹ They are also representative of multiple groups in the Senate, including members of the Independent Senators Group, the Progressive Senate Group, and one senator who was non-affiliated.

Table 1: Institutional Critical Actor Profiles

Senators:	Sex	Group	Date Appointed	Expertise in gender, race, or human rights*
Bernard, Wanda Thomas	Woman (Black-identified)	Progressive Senate Group	2016	Special Advisor on Diversity and Inclusiveness at a university; founding member of the Association of Black Social Workers (ABSW); former member of the Nova Scotia Advisory Council on the Status of Women
Mary Coyle	Woman	Independent Senators Group	2017	Long-time champion for women's leadership, gender equality, and the rights of Indigenous Peoples
Lillian Dyck	Woman (First Nations/ Chinese-identified)	Progressive Senate Group	2005	Advocate for rights of Indigenous women including anti-violence efforts and women in science
Rosa Galvez	Woman (Peruvian descent identified)	Independent Senators Group	2016	None listed
Nancy Hartling	Woman	Independent Senators Group	2016	Co-chair of New Brunswick's Minister's Working Group on Violence against women; member of the Muriel McQueen Fergusson Centre for Family Violence Research board
Frances Lankin	Woman	Independent Senators Group	2016	Equal Voice board member
Marilou McPhedran	Woman	Independent Senators Group	2016	Co-founder of the Women's Legal Education and Action Fund and the Metropolitan Action Committee on Violence against women and children.
Julie Miville-Dechêne	Woman	Independent Senators Group	2018	Chair of the Quebec government's <i>Conseil du statut de la femme</i> .
Grant Mitchell	Man	Non-affiliated Senator	2005	Long-time supporter of same-sex marriage; worked on sexual harassment issues in the RCMP.
Kim Pate	Woman	Independent Senators Group	2016	Executive Director of the Canadian Association of Elizabeth Fry Societies

*Not an exhaustive list of relevant experience. Information provided on individual Senator biographies listed on the Senate of Canada website with the exceptions of retired Senator Dyck's (https://en.wikipedia.org/wiki/Lillian_Dyck#Career and retired Senator Mitchell's (<https://sencanada.ca/en/sencaplus/people/meet-senator-grant-mitchell/>).

In total, four discursive themes emerge in these debates: (1) the ‘accountable’ institution; (2) the ‘modern’ institution (3) violence is ‘personal’; and (4) violence is gendered and raced.

1. *The ‘Accountable’ Institution*

Several senators argued that a new anti-harassment policy would help bolster the accountability of the Senate as an institution. When introducing her inquiry in May 2017, Senator McPhedran stated that the:

Senate is also a self-regulating institution and holds the highest degree of public trust. At the core of this public trust is what is earned by an institution through its accountability mechanisms that work in the public interest.

(Canada Parliament May 30 2017)

In October 24 2017 – at the height of the #MeToo movement -- Senator Kim Pate reinforced McPhedran’s arguments and stated in her inquiry speech that harassment is not due to “a few bad apples” and that the:

legitimacy of institutions will be enhanced, not weakened, by an approach of accountability and transparency, one that acknowledges systemic biases, misogynist stereotypes and power imbalances, as well as the harm that they may cause, while also encouraging diligent and strenuous work to fight against them.

(Canada Parliament October 24 2017)

One year later, Senator Mary Coyle stated that as a self-regulating institution, the Senate has an opportunity to be: “visionary, smart, accountable, caring leaders. We have an opportunity to become a trendsetter among parliamentary institutions; and, of course, we have a clear responsibility, too.” (Canada Parliament, October 30 2018). Some senators referenced the situation with Senator Meredith, referring to the ways in which the Senate

had failed its employees and staff in this case, weakening the public's trust in the institution. In June 2017, Senator Wanda Thomas Bernard stated: "Meredith's former employees who filed complaints reportedly noted that employees in the Senate who had been harassed or sexually abused by a senator were not guaranteed justice, despite what the rules state." (Canada Parliament, June 21, 2017).

The framing of harassment in the Senate as an issue of accountability would have added resonance with institutional decision-makers when considered alongside other public scandals that have tarnished the institution's public reputation. In 2012, public allegations surfaced that several senators had made improper expense claims for housing costs. This widely publicized scandal resulted in RCMP and internal Senate investigations. As an unelected chamber, Canada's Senate has historically suffered from low public regard, and any scandals that reduce further its perceived legitimacy may be particularly damaging. Should senators wish to continue exercising their constitutional powers with greater regularity (e.g. using their powers to amend more legislation from the lower house), the institution needs to be seen by the public to be held to a higher, ethical standard. As inquiry critical actors reminded their colleagues, a revised anti-harassment policy would have the added benefit of making the institution appear more accountable in the eyes of the Canadian public.

2. The 'Modern' Institution

The #MeToo and #TimesUp movements drew global attention to the problems of gender and race-based violence and harassment. Several senators used these movements to encourage the Senate to adopt a new harassment policy in order to align itself with changing societal norms on these issues. Just two months after the October

2017 #MeToo wave hit, in December 2017 Senator Nancy Hartling spoke to Senator McPhedran's Inquiry, citing the #MeToo movement as a reason for the Senate to act:

As policy-makers and as senators, it is our responsibility and our duty to lead by example, to walk the talk, to practise what we teach. We can set an example for our country and for the world. #MeToo has shown us that sexual harassment is very much alive and is, I believe, the beginning of a very important cultural revolution. I look forward to, and encourage, our continued discussions on this subject, both formally and informally.

(Canada Parliament, 05 December 2017)

Two months later, Senator Frances Lankin drew attention to shifting social norms, stating that: "[t]he #MeToo movement and the Time's Up movement, have really created a seismic shift in the landscape of these sorts of issues and concerns being brought forward. So this inquiry speaks to what in fact the Senate might do or should do." (Canada Parliament, February 13 2018). On the one-year anniversary of #MeToo, in October 2018 Senator Mary Coyle resumed debate on Senator McPhedran's Inquiry, noting the shifting societal context as a reason for the Senate to act, with a particular focus on the media's coverage of sexual harassment:

The area that I would like to speak to, at the general institutional end of the spectrum, concerns the overarching principles guiding our new, updated policy, procedures and mechanisms. At this time in our world and our society, where the September 29 edition of *The Economist* magazine's headline read, "Sex and power: #MeToo, one year later." At this time when women around the world are exclaiming #BalanceTonPorc, #MyDressMyChoice, #Cualto! and #HearMeToo!

(Canada Parliament October 30 2018)

Ensuring that this broader social context would not fade from their deliberations, in May 2019 Senator Julie Miville-Dechéne also referenced the #MeToo movement, citing reports in Canada and Québec that revealed an increase in sexual assault statistics since 2017 (Canada Parliament May 14 2019).

Drawing their colleague's attentions to these broader societal movements is a useful strategy, as it reminds senators of the public's awareness of, and shifting expectations around, harassment in the workplace and the need for the Senate as a public institution to be seen as responsive to these issues. Heightened media attention from #MeToo, #TimesUp and #BlackLivesMatter also gave institutional critical actors leverage with which they could press for this gendered reform. This strategy accords with research on institutional change which shows how exogenous events, or 'critical junctures' offer moments of uncertainty or rules 'fuzziness' that loosen institutional constraints for actors, allowing change to become possible (Fioretos *et al.*, 2016: 10-11).

3. *Violence is 'personal'*

Inquiry participants also spoke about harassment and violence in very personal ways, with some detailing their own experiences of abuse. In her inquiry speech, Senator Lankin recalled that her previous employment experiences were predominately characterized by sexual harassment and bullying (Canada Parliament, February 13 2018). In a particularly emotional speech, Senator Rosa Galvez spoke about her past workplace experiences of sexism and racism as a women of colour in science and shared her own strategies of survival and resistance:

Sadly, throughout my engineering studies and professional career,
I witnessed cases of harassment, bullying, intimidation and denigration
towards young women and men by people in positions of authority.
I witnessed physical and psychological abuse by bullies and narcissists.
I witnessed mocking and racist comments from superiors towards
foreigners. I witnessed cases of questionable ethics and morals. While I
moved forward with my career, I experienced intimidation and threats by my
peers who feared being in intellectual competition with me. I refused to yield;
I defended myself and my own space as if it was a ritual passage in the
jungle that I had to conquer.

(Canada Parliament, June 11 2018)

Four months later, Senator Mary Coyle shared her experiences of being sexually assaulted and harassed:

Although I clearly benefit from my status as a White, well-educated, able-bodied, heterosexual, Canadian-born woman, I have experienced, in previous workplaces, sexual assault, unwanted sexual touching, sexual harassment, severe bullying and humiliation. I have been told to shut my trap by my supervisor at a meeting of international university professors for whom I was doing work as a graduate student. I had my breast fondled by a funder while working in the field as a young international development worker. I was told my job would be under threat if I didn't comply with the wishes of a colleague when I was a university vice-president.

(Canada Parliament, October 30, 2018)

During her Inquiry in February 2020, Senator Lillian Dyck also spoke about her experiences of being harassed and bullied in the Senate. During her time on the Standing Committee on Aboriginal Peoples, she stated that some members: "continually patronized, demeaned and belittled me in my role as chair of the committee. Their dishonourable conduct was in sharp contrast to that expected of a senator." (Canada Parliament, February 6 2020). Based on her experience of attempting to file a formal complaint, Senator Dyck further pointed to a serious gap in the existing harassment policy:

Colleagues, the application of privilege in the Senate harassment policy is one-sided. While the parliamentary privilege of the harasser is taken into account to protect them, that of the victim is overlooked. The victim too should have their privilege taken into account, so that they can carry out their parliamentary activities free from any undue interference or obstruction caused by harassment. In the situation where one senator harasses another senator during a committee meeting, both have their individual parliamentary privileges and their privileges should be equal. However, the way our harassment policy works now, only the parliamentary privilege of the harasser is recognized. This is not equality amongst peers. This is clearly unfair to victims of harassment.

(Canada Parliament, February 6 2020)

These brave speeches added an emotional weight and urgency to the Senate's discussions; it is also the first time in history that several women senators spoke out collectively on the Senate floor about their personal experiences of harassment and abuse. In addition to persuading their fellow senators to act, these personal stories further challenged the assumed gender and race neutrality of political institutions, which are not usually questioned so publicly.

4. *Violence is gendered and raced.*

The final common theme that emerged from inquiry debates was that a new policy should be centred around issues of gender and race. This is a similar strategy to how representatives framed sexual harassment debates in the European Parliament (Berthet and Kantola 2020). Several senators drew attention to the need for institutional cultural change that recognizes misogyny. One Senator urged her colleagues to “look for causes and potential gaps in our practices and then begin to put mechanisms in place to address our heavily engrained, patriarchal and misogynistic culture, and to prevent harassment from happening or least vastly reduce its frequency.” (Canada Parliament, December 5 2017). Another Senator drew attention to the ways in which: “[a]ll of us are affected and influenced by centuries of myths about gender, and until our culture, our language and our way of thinking changes, we will never be able to properly help victims of sexual harassment.” (Canada Parliament, October 24 2017).

Finally, several actors spoke about the need for the Senate to take seriously power imbalances within the institution with effective solutions that centre the victim/survivors first. Senator Nancy Hartling encouraged the new committee to review the policy critically with a gender-based analysis-plus approach (GBA+) in order to identify biases and

assumptions entrenched within the current policy (Canada Parliament, December 5 2017). Drawing attention to gender and racial power imbalances on the floor of the Senate is an inherently subversive act, as it makes visible the ways in which institutions reinforce white, male privilege both historically and today.

Critical Actors' Recommendations & Institutional Responses

In addition to framing the problem in common ways, several senators offered recommendations on how the Senate should address this problem. In some cases, these recommendations were supported by other senators, either in other parliamentary debates, committee meetings or in the media; I've noted these supporting statements where possible.¹² Before presenting this analysis, I first provide an overview of the Senate's newest policy tabled in February 2021.

Senate Harassment and Violence Prevention Policy (February 2021)

The 2021 policy applies to all senators, any person employed by the Senate, persons providing services to a senator or Senate Administration, and to students, interns, or volunteers working in a senator's office or for the Senate administration.

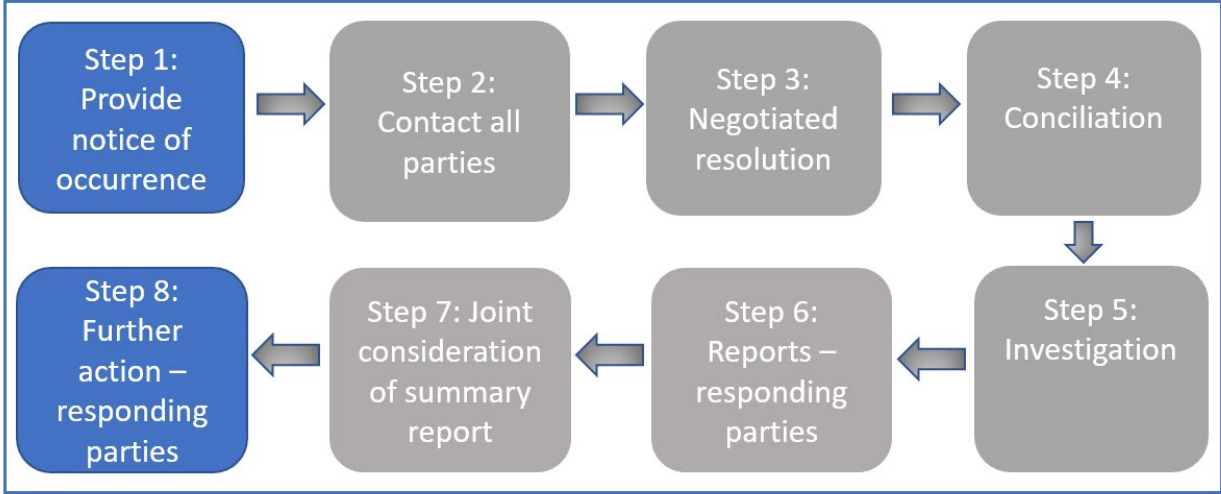
It applies to and defines non-criminal harassment and violence as:

any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including an prescribed action, conduct or comment. (Senate of Canada 2021a, 2).

This definition replicates the language in the Canada Labour Code (subsection (122(1))) and harmonizes the Senate definitions with those in Bill C-65, the federal anti-harassment and violence legislation that applies to all federally-regulated workplaces including Parliament; it received Royal Assent in 2018.

Figure 1 provides an overview of the policy's resolution process. Importantly, the policy includes clear timelines for each step, with the entire resolution process to be completed within a six month period. In step 1, a person who experiences (the "principal party") or who witnesses harassment and violence in the workplace is encouraged to first notify the "designated recipient" or a supervisor of the occurrence. The designated recipient is to be an impartial third party (which at the time of writing, had not yet been identified). In step 2, the designated recipient must contact the "principal party" (victim/survivor) or the witness to confirm receipt of the complaint and overview the resolution process with them. The "responding party" (alleged perpetrator) is also contacted and provided the same information. Step 3 consists of a negotiated resolution, whereby the designated recipient reaches out to the principal party in an attempt to reach a resolution. During this stage the designated recipient is to assess whether any preventative measures (e.g. physical work reassignment) are required. If the designated recipient and the principal party do not agree that the "occurrence" meets the definition in the policy, the principal party has the option of continuing with the resolution or pursuing an investigation (Senate of Canada 2021a, 10).

Figure 1: Senate Harassment and Violence Prevention Policy: Resolution Process (February 2021)



*Figure prepared by the author.

Step 4 involves conciliation. For this to occur, both parties must mutually agree to a process and agree on a person who will facilitate the process. Step 5 is the investigation stage, which the principal party may request at any stage of the resolution process. To conduct the investigation, the designated recipient is to select from a list of investigators developed by the CIBA Sub-Committee and the Policy Committee jointly. A person may serve as an investigator only if they meet the requirements laid out in Bill C-65’s regulations.¹³

Step 6 is the reporting stage. In this step the investigator is to submit to the designated recipient a detailed report of the case indicating whether the policy was violated, and a summary report which is to include any recommendations to “eliminate or minimize the risk of a similar occurrence” (Senate of Canada 2021a, 11). When the responding party is someone other than a senator, the designated recipient must provide

copies of both reports to both parties and to the requisite decision-making authority (DMA) and a copy of the summary report to both parties, the DMA, and the Workplace Committee.¹⁴ When the responding party is a senator, the designated recipient is to provide a copy of the final report to both parties and to the Senate Ethics Officer (SEO) and a copy of the summary report to both parties, the Sub-committee and the Workplace Committee. Both parties are given opportunities to respond in writing to the reports; no reports are to reveal the identity of the persons involved in the process.

Step 7 is consideration of the summary report. Together, the requisite DMA and the Workplace Committee are to meet to determine “which of the recommendations in the investigator’s summary report are to be implemented.” (Senate of Canada 2021a, 12). The purpose of this step is not to consider disciplinary action but rather to assess how the Senate can best eliminate or minimize the risk of reoccurrence. Step 8 includes “further action” for responding parties. When a responding party is someone other than a senator, the DMA is to decide “whether to accept or reject the final report in whole or in part.” (Senate of Canada 2021a, 13). The DMA also determines whether remedial, corrective, or disciplinary measures are to be imposed upon the responding party. When a responding party is a senator, the SEO considers the final report and may report to the Standing Committee on Ethics and Conflict of Interest (CONF). CONF may then “consider” the SEO report and recommend disciplinary action (e.g. suspension or expulsion to the Senate), or refer the matter confidentially to the CIBA Sub-committee for consideration of any remedial or corrective measures.

Content Analysis: the Senate's 2021 Anti-Harassment Policy

Table 2 lists the twelve recommendations provided by actors during inquiry debates, as well as the actors' names and dates each recommendation was made. Comparing these recommendations to the Senate's 2021 policy we can evaluate how and to what extent the institution has responded to the issues raised by this set of institutional critical actors. Whether the Senate has addressed, partially addressed, or not yet addressed each recommendation at the time of writing is indicated.

Recommendation #1: Revise the Existing Policy.
Status: addressed.

A key recommendation that senators requested during inquiry debates was for the Senate to adopt a new anti-harassment policy. A timeline of key events makes it clear that Senate decision-makers took this recommendation seriously and worked hard to adopt a new policy. Two months after the October 2017 #MeToo and #TimesUP movements, the Standing Committee on Internal Economy, Budgets, and Administration (CIBA) established a sub-committee. This sub-committee (the Subcommittee on Human Resources, HRRH), was authorized to examine and harmonize the working conditions of all Senate employees and to conduct a review of the existing 2009 Senate anti-harassment policy. In March 2019, CIBA tabled its thirty-seventh report, *Modernizing the Senate's Anti-Harassment Policy: Together let's protect our healthy worklife* which included twenty-eight recommendations that it would provide to the Senate Administration in order to: "prepare a new, rather than a revised, anti-harassment policy" (Senate of Canada, 2019, p.7).

Table 2: Critical Actor Recommendations Proposed in Inquiry Speeches

Recommendation:	Actor/Date:	Status:
1. Revise existing anti-harassment policy	McPhedran (May 2017); Bernard (June 2017); Pate (Oct. 2017); Lankin (Feb. 2018); Galvez (June 2018); Coyle (2018); Miville-Dechêne (May 2019)	Addressed
2. Enact mandatory training	Pate (Oct. 2017)	Addressed
3. GBA+ analysis with clear definitions	Pate (Oct. 2017); Hartling (Dec. 2017); Lankin (Feb. 2018)	Partially addressed
4. Redress unequal employment relations	Bernard (June 2017); Pate (Oct. 2017)	Not yet addressed
5. External oversight over all policy cases	McPhedran (Feb. 2020); Downe (Feb. 2020)	Not yet addressed
6. Offer financial/legal support to victim/survivors	McPhedran (March 2019)	Not yet addressed
7. Allow victim/survivors to know disciplinary outcome of their case	McPhedran (Feb. 2020)	Not yet addressed
8. Public transparency	Lankin (Feb. 2018); Miville-Dechêne (May 2019)	Not yet addressed
9. Prohibit non-disclosure agreements	McPhedran (Feb. 2020)	Not yet addressed
10. Include serious penalties for perpetrators	Miville-Dechêne (May 2019)	Not yet addressed
11. Exempt usage of parliamentary privilege for Senators accused of harassment	Dyck (Feb. 2020)	Not yet addressed
12. Revise Ethics Code to cover harassment and bullying	Dyck (Feb. 2020)	Not yet addressed

On February 6th 2020 CIBA presented its third report, *Policy on Prevention and Resolution of Harassment in the Senate Workplace*.¹⁵ This report included a new anti-harassment policy for the institution (henceforth referred to as the 2020 proposed policy). In addition to the proposed policy, CIBA also recommended that the Senate refer various aspects of the policy to the Standing Committee on Rules, Procedures and the Rights of Parliament and to the Standing Committee on Ethics and Conflict of Interest for Senators, and that both committees present their reports to the Senate no later than April 30, 2020.

These additional aspects pertained, respectively, to questions of parliamentary privilege and to potential revisions to the Ethics Code.

After Senator McPhedran moved an amendment to send the policy to a third committee for a human rights analysis (the Standing Senate Committee on Human Rights), debate was adjourned and the report died on the Order Paper with the prorogation of Parliament (without the adoption of the 2020 proposed policy) (Canada Parliament, February 20, 2020). One year later, CIBA tabled its fourth report, the *Senate Harassment and Violence Prevention Policy* (Senate of Canada 2021a). The 2021 policy (discussed in the previous section) aligns the Senate workplace with the regulations of Bill C-65 that were announced by the federal government in June 2020 (Government of Canada 2020). It was further determined that the 2021 policy fell under the authority of CIBA and therefore did not require the full approval of the Senate; its current status is therefore “adopted.”¹⁶

Recommendation #2: Enact mandatory training.
Status: addressed.

Senators also called for mandatory anti-harassment training in the Senate. This recommendation has also been addressed. In June 2018, the Sub-committee on Human Resources recommended that all senators, individuals with supervisory or managerial responsibilities within the Senate Administration, senators’ staff, and employees of Senate Administration attend mandatory training within a specified period of time (Senate of Canada 2019). As of May 2019, 103 of 105 senators, along with 96 percent of staffers, had completed this training (Evelyn 2019).

The 2021 policy further specifies that the Senate is to provide all senators and employees of the Senate with training that will cover the contents of the policy, and that reviews the relationship between: workplace harassment and violence and the prohibited grounds of discrimination included in the *Canadian Human Rights Act*, and how to “recognize, minimize, and prevent workplace harassment and violence.” (Senate of Canada 2021a, 6). All new senators and Senate employees are to receive this training within three months after the day they are appointed and again at least once every three years. One area that the policy does not cover is whether this training will be conducted online or in-person; online training is generally considered to be less effective than in-person training.

Recommendation #3: Conduct a gender-based analysis of the policy and include relevant definitions.

Status: partially addressed.

In developing a new policy, the Sub-committee on Human Resources did engage in a gender-based analysis of harassment in the Senate workplace. In the Sub-committee’s March 2019 report, *Modernizing the Senate’s Anti-Harassment Policy – Together let’s protect our healthy workplace*, the list of witnesses includes a number of human rights lawyers and gender-based violence experts. The report also includes portions of committee transcripts and reveals that several witnesses spoke about harassment and violence as distinctly gendered phenomena and as gendered abuses of power (Senate of Canada 2019). Based on this work, the committee’s 2019 report provided a list of twenty-eight recommendations, including recommendation five, which states that any new policy should recognize gender-based harassment, and that: the new Senate anti-harassment policy include a definition for the term “gender-based

harassment,” thereby acknowledging the significant impact that this form of harassment can have on someone’s psychological well-being and job satisfaction.” (Senate of Canada 2019, ix).

Despite CIBA’s recommendation, however, gender-based violence (GBV) is not explicitly recognized in the 2021 policy and there is no mention of the causes of violence and harassment which are rooted in gendered, raced, and other imbalances of power. Instead, an appendix is offered (Appendix A) that offers examples of behaviour that would constitute harassing and violent behaviour, and includes: “making fun of an employee because of gender identity”, sexist, racist, homophobic or transphobic remarks, making “gender-related comments based on someone’s physical characteristics, mannerisms, or conformity to sex-role stereotypes” or finally, verbal abuse based on someone’s gender or sexual orientation (Senate of Canada 2021a, 28). Due to the lack of explicit discussion on the gendered nature of violence in the policy and the absence of a definition of gender-based harassment, this recommendation has been only partially addressed by the Senate to date.

*Recommendation #4: Redress unequal employment relationships.
Status: not yet addressed.*

Some senators referred to the imbalance of power between senators and Senate employees as an issue that needs to be addressed in order for a new anti-harassment policy to be effective. The Senate as a workplace is very hierarchical, at the top of which are (unelected) senators who sit until the age of seventy-five. Senators are also not technically employees of the Senate and are protected by various individual parliamentary privileges (e.g. freedom of speech during all proceedings of parliament). Senators further

wield considerable power over staff employed in their offices, who are hired on short-term contracts that are not to exceed twelve months (Senate of Canada 2017, 7). Staffers employed by senators are also not protected by statutory rights under the *Parliament Employment and Staff Relations Act* to grieve employment decisions (Senate of Canada 2019, 47). These power dynamics mean that staffers need to remain in the “good graces” of their employing Senators in order to keep their jobs.¹⁷ As the Senate Ethics Officer’s 2019 report makes clear, fear of losing their job or being retaliated against were reasons that former Senator Don Meredith’s victim/survivors did not file a formal complaint under the existing 2009 anti-harassment policy.

The 2021 policy notes these power imbalances as potential “job factors” that might contribute to workplace harassment and violence. It states that this can include a:

significant power imbalance among the persons to whom this Policy applies; job insecurity of senators’ staff members, who are hired on renewable annual contracts and are not subject to the regime set out in the Parliamentary Employment Staff and Relations Act; and senators having a high degree of discretion in relation to the management of their staff.

(Senate of Canada 2021a, 5).

Despite its recognition of these employment issues, the 2021 policy does not resolve them. It is likely that if the Senate were to address these problems it would need to do so beyond the scope of this policy. However, to date these issues have not been addressed by the institution and existing employment rules that contribute to serious power imbalances remain in place. Solutions could include, for example, the elimination of annual contracts in senators’ offices.

Recommendation #5: Provide external oversight over all harassment and violence cases. Status: not yet addressed.

Another recommendation made by Senate critical actors was for the new policy to offer external oversight over harassment and violence cases. The 2021 policy introduces a new “designated recipient” which is to be an impartial third party to the institution (although still employed by the Senate on contract). It also provides for a trained independent investigator which will ensure that when an investigation takes place, it will be done by a professional who is trained in handling cases of harassment and violence.

While the creation of these external actors would add some independence to the process (compared the existing 2009 policy where party whips were involved), full external oversight is not achieved. The policy lays out different resolution processes based on the identity of the “responding party” (potential perpetrator). When the responding party is someone other than a senator, the investigator’s summary report is to be sent to the requisite decision-making authority (DMA), which is the Steering Committee of CIBA, comprised of senators. In these cases the DMA is further authorized to “decide whether to accept or reject the final report in whole or in part.” (Senate of Canada 2021a, 13). In effect, this provision empowers senators to overturn or ignore the independent investigator’s report as they see fit. When a responding party is a Senator, the DMA is the Sub-committee of CIBA, which is also comprised senators. Although the policy does not specify whether the Sub-committee of CIBA may also reject or accept a final report, any action taken in a claim from this point forward remains entirely in the control of politicians, most of whom are not experts on gender or race-based harassment.

*Recommendation #6: Provide victims/survivors with financial/legal support
Status: not yet addressed.*

Another inquiry recommendation was that the Senate should provide financial/legal support to victim/survivors of harassment and violence. Although the 2021

policy states that any person who experiences harassment or violence may seek support through the Senate's Employee and Family Assistance Program (which offers counselling services), it does not create any new mechanisms for financial or legal support for victim/survivors of harassment and violence. This policy gap is conspicuous given the experiences of staffers who were employed by former Senator Don Meredith. After issuing a rare "public statement of regret" to his alleged victim/survivors in June 2020, the Senate hired an independent evaluator to assess the claims of Meredith's alleged victim/survivors. Based on the findings of this October 2020 report, the Senate agreed to provide \$498,000 in compensation to nine staff members, and an additional \$30,000 in legal fees incurred by some staff members.¹⁸ Senators may also not use their office budgets to cover the legal fees of their employees who have been harassed.¹⁹

Recommendation #7: Allow victim/survivors to know the disciplinary outcome of their case.

Status: not yet addressed.

Critical actors also recommended that victim/survivors be permitted to know whether or if their perpetrator has been disciplined by the employer/institution. Unfortunately, the 2021 policy does not include this provision. Instead, the policy states that while the requisite DMA is to inform the responding party of any remedial, corrective, or disciplinary measures to be imposed (when applicable), such measures are to: "remain confidential and – unless disclosure is required for their implementation – are not to be shared with the principal party" (Senate of Canada 2021a, 13).²⁰ The fact that victim/survivors may never know whether their perpetrator was punished for their actions is problematic as it means they are likely to never know whether their employer (the Senate) held their perpetrator accountable for their actions. This policy shortcoming could

create a disincentive for future victim/survivors to report their experiences of abuse, especially if they do not believe that their perpetrator will face real (or any) consequences for their actions.

Recommendation #8: Public transparency over how cases are handled.
Status: not yet addressed.

Some senators recommended that the Senate provide for full, public transparency for all harassment and violence claims (while maintaining the confidentiality of victim/survivors). The 2021 policy stipulates that the “designated recipient” (impartial third party) is to provide “regular relevant statistical data” on the policy’s usage to the Chief Human Resources Officer and to the CIBA Sub-Committee. Reporting is to include:

- The total number of occurrences;
- The number of occurrences related to different types of violence (e.g. harassment, sexual harassment, etc...);
- The number of occurrences that resulted in the death of an employee;
- The number of occurrences that fell under the prohibited grounds of discrimination in the Canadian Human Rights Act;
- The locations of each occurrence;
- The types of professional relationships that existed between the principal and responding parties;
- The means by which each case was resolved (as per Bill C-65 regulation 32); and,
- The average time it took for each resolution process to be completed.

(The Senate of Canada 2021a, 25-26).

While a positive step forward, these transparency requirements do not go far enough as they will allow senators (as ‘responding parties’) who have been found to have violated the policy to remain anonymous not only to their victim/survivors, but also to others who work in the Senate and to the Canadian public.

These provisions also fall short by comparative standards. The *Ethics and Conflict of Interest Code* which covers other unethical behaviours of senators (e.g. misuse of public funds), requires that all reports (SEO Inquiries) into cases that fall under the code

be made publicly available on the SEO's website (<http://sen.parl.gc.ca/seocse/eng/home-e.html>). In comparison with another Westminster upper house, the British House of Lords makes all of its reports into similar cases publicly available on the Lords' Conduct Committee website. Lords reports include the name of the member (when they are the responding party), with any potentially identifying information for victim/survivors redacted. In contrast, the names of offending (or worse, serially offending) Canadian senators who commit harassment or violence may never be publicly known under the 2021 policy.

Recommendation #9: Prohibit the use of non-disclosure agreements in harassment and violence cases.

Status: not yet addressed.

Despite a recommendation to prohibit the use of non-disclosure agreements (NDAs) in harassment and violence cases in the Senate, the 2021 policy does not address this issue. Compounding this problem is that the institution's reliance on non-disclosure agreements and/or settlements to previous victims of harassment (and other situations) remains shrouded in secrecy. When asked by a *Hill Times* reporter whether the Senate had ever asked an employee to sign such an agreement, a Senate Administration spokesperson stated that such settlements generally do include confidentiality clauses that cannot be discussed publicly, and that such agreements may include non-disclosure agreements on employees of the Senate (Mazereeuw 2020b).

The use of NDAs is problematic as it serves to silence victim/survivors from reporting or speaking about their harassment and/or abuse in a variety of contexts, depending on the language of the agreement.²¹ The use of NDAs in cases involving harassment and violence have additional gendered consequences as statistics show that

women are disproportionately more likely to experience harassment in the workplace (Statistics Canada 2018).

*Recommendation #10: Include real and serious penalties for perpetrators.
Status: not yet addressed.*

Another recommendation made during inquiry debates is that a new anti-harassment policy should include serious penalties imposed against perpetrators of harassment/violence. The 2021 policy lists potential consequences for Senate employees who are found in breach of the policy, including providing an apology, harassment training, or leadership coaching, suspension, demotion or finally, termination. In the case of senators, the policy states that serious cases could result in their suspension or expulsion.

While a list of potential sanctions is helpful, policy gaps are likely to reduce the chances that senators in particular will face serious consequences when they violate the policy. This is because the policy allows for all decisions related to the sanctioning of senators to remain in the hands of fellow members on CONF (the Senate's Ethics committee), which "may" take into consideration the opinion of the SEO, but is not formally obligated to do so.²² The institution's historical track record on imposing serious punishments on its members is further relevant, as the Senate has seldom suspended, and never expelled, one of its members. This is not to suggest that senators on CONF would never recommend that a fellow senator be seriously punished and in fact, it had recommended that former Senator Meredith be expelled based on his actions. However, the fact that the Senate has seldom exercised its authority to discipline a member is demonstrative of the ways in which older rules may undermine or thwart the stated goals of the new anti-harassment policy.

The ability of senators to avoid punishment by dodging a (rare) expulsion vote is also relevant. Two recent cases demonstrate this problem. As discussed earlier, when the Ethics Committee (CONF) recommended that Meredith be expelled in 2017, the former senator was able to resign before the full Senate vote took place, allowing him to keep his honourable title and pension for life. Facing a possible vote of expulsion in early 2021 herself, Senator Lyn Beyak resigned, thus evading further action taken against her for her anti-Indigenous, racist remarks.²³ Although the right to retire early should not be taken away from senators, other disciplinary actions could be considered in these cases, such as having their honourable title stripped, parts of their pension clawed back, or financial sanctions imposed upon them. The 2021 policy does not provide for these disciplinary actions to be imposed.

Recommendation #11: Exempt use of parliamentary privilege for Senators accused of harassment.

Status: not yet addressed.

In her inquiry speech, Senator Dyck called for the exemption of parliamentary privilege in all cases that fall under the harassment policy involving senators. Although the Senate's 2021 policy mentions parliamentary privilege (the 2020 proposed policy does not), it offers no changes to its historical usage and instead, reaffirms the Senate's existing rules around privilege, stating that:

The Senate – and, subject to the Senate's authority, its committees – have the exclusive authority to regulate their own proceedings. Individuals taking part in parliamentary proceedings are covered by parliamentary privilege in order to enable the Senate and senators to fulfill their constitutional role without undue interference, obstruction or fear of external retribution. This privilege is fundamental to parliamentary democracy and allows senators to express themselves fully.

(The Senate of Canada 2021a, 2)

The policy further stipulates that any inappropriate or unwelcome conduct that occurs during a parliamentary proceeding does not fall within its purview and should instead be brought to the attention of the Speaker or Chair.²⁴ An appendix in the policy provides an overview of how inappropriate or unwelcome conduct during parliamentary proceedings are currently handled. It reminds senators that they have a responsibility to “maintain order and decorum” at all times and that if they feel that inappropriate or unwelcome context has occurred during a proceeding of the Senate, they may:

raise a point of order or a question of privilege under certain conditions and... [i]f necessary, the Speaker will determine if a *prima facie* (at first glance) question of privilege has been established. This decision is subject to appeal to the Senate.

(Senate of Canada 2021a, 27)

The inclusion of this appendix is a useful reminder of the steps senators should take when they believe their privileges have been violated (e.g. sexist, racist or homophobic comments or gestures). However, it is important to recall that the existing rules on parliamentary privilege have not been sufficient to curb such behaviours, as evidenced by Senator Dyck’s experiences while chairing a standing committee. Unfortunately, the 2021 policy does not address these broader issues and instead leaves the burden of responsibility on those who are the most impacted by offensive language (e.g. women, BIPOC, and LGBTQ+ individuals) to raise a point of order *after* they have been on the receiving end of an inappropriate comment.

Parliamentary privilege was further cited by the SEO as a problem in the Meredith case. The SEO’s 2019 Meredith report reveals that some senators used parliamentary privilege as a rationale to not provide documents for the investigation (due to the *in camera* nature of some committee meetings) and that they refused to be interviewed as

part of the fact-finding process. These factors (among others) contributed to serious delays and to the re-traumatization of Meredith's alleged victim/survivors as they were forced to recount their experiences of abuse to multiple parties over a period of time that exceeded five years (Senate Ethics Officer, 2019). The ability of senator's to potentially obstruct future harassment and violence investigations under the guise of parliamentary privilege has not yet been addressed by the Senate.

Recommendation #12: Revise the Ethics and Conflict of Interest Code for Senators to cover harassment and violence.

Status: not yet addressed.

A final recommendation made by critical actors is that the Senate's *Ethics and Conflict of Interest Code* should be revised to cover harassment and violence. Currently, the Code includes two general conduct provisions (sections 7.1 and 7.2):

7.1 (1) A Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator. (2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

7.2 A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity.

(Senate of Canada 2014, 4).

At the time of writing, the Ethics Code contains no provisions that explicitly prohibit senators' conduct relating to harassment or violence. Additionally, there are no provisions in the code that prohibit the use of sexist, racist, homophobic, or transphobic language and/or behaviour. These gaps persist despite the fact that several senators (e.g. Senators Peter Harder and Frances Lankin) have called for the Ethics Code to be revised to prohibit these behaviours in the media. In early 2021, former Senator Lillian Dyck published an op-ed in the *Hill Times* in which she cites the "systemic racism" within the Senate's

existing ethics protocols in its handling of former Senator Lyn Beyak's anti-Indigenous behaviours (Dyck 2021).

The 2021 policy also introduces confusing process questions about how and whether a senator's conduct that contravenes the policy may also constitute non-compliance with the Ethics Code. In a section titled "Other Recourse", the policy states that: "a senator's conduct that contravenes this Policy may constitute non-compliance with the *Ethics and Conflict of Interest Code for Senators*" (Senate of Canada 2021a, 7). However, if the SEO does not meet the legal requirements needed for investigators of harassment and violence cases as required by Bill C-65, it is unclear how a harassment case could proceed forward under the Ethics Code without changes to the code itself.

Concluding Thoughts

The findings of this study demonstrate how Senate critical actors were successful in putting the problems of violence and harassment onto the legislative agenda. Between 2017 and 2021, inquiry participants drew sustained attention to these issues at the height of the #MeToo and #TimesUp movements, and beyond. Inquiry participants used a number of strategies to persuade rule-makers to address harassment within the institution. These included references to the need for the Senate to be seen as accountable to the Canadian public, to the evolving social attitudes and norms on sexual harassment in the workplace (e.g. #MeToo), and to how issues of violence and harassment are often about abuses of power rooted in gender and race power asymmetries.

The sex of parliamentarians also mattered in inquiry debates on harassment. Most inquiry actors were women and additionally, most were relatively new to the institution. As one interviewee stated, “when I arrived [here] I felt quite lost. When the Meredith case came up, I thought to myself: I know about these things. I know I can give voice to some of these issues.”²⁵ Inquiry actors were further supported by some male colleagues on the need for stronger harassment rules in the Senate. Almost all of the inquiry participants had professional backgrounds and expertise in gender, race, and Indigenous rights issues. Powerfully, they spoke about their own experiences of harassment using very moving personal stories. Combined, these ‘linked narratives’ constitute what Schmidt (2009, 533) refers to as a “discursive coalition” of institutional actors who used their parliamentary speeches to persuade decision-makers and members of the public of the need for institutional gendered reform. In revealing their personal stories and tying them to broader issues of misogyny, sexism, and racism, this collective narrative highlighted the gendered and raced power dynamics that are generally taken for granted within white, male-dominated institutions, and often remain hidden from view.

Yet inquiry participants also constituted a fairly small number of women Senators at the time (approximately one-quarter). Rather than assume that all women will ‘act for’ women, Senate inquiry participants may be better characterised as: “preferable descriptive representatives...who recognize and are recognized by members of their historically disadvantaged group as being ‘one of us’...[and who] have a reciprocated sense of having a fate linked with that of other members of their group” (Dovi 2002, 736). As one interviewee said: “it is very important for me [to participate in debate on a new harassment policy] which is not an egotistical exercise, but grounded in years of

experience in this field.”²⁶ Future studies should examine how women’s (and men’s) gender, race, and professional identities inform their work in other legislative spaces in the Senate, such as within committees, partisan/groups or women’s formal and informal networks.

While the 2021 policy is a positive step forward, I also find that the Senate has yet to address a number of the recommendations provided by these inquiry participants, several of whom have extensive professional expertise on gender-based violence. In total, only three of twelve recommendations made during inquiry speeches between 2017 and 2021 have been addressed (one only partially), while nine remain unaddressed to date. Particularly problematic is that pre-existing rules that allow for mandatory short-term employment contracts for Senators’ staff and that relate to parliamentary privilege remain in place. Without addressing these and other older rules, the new anti-harassment policy may be interpreted by actors and implemented in ways that will limit its ability to fully address violence. These policy gaps and loopholes are likely to have especially negative consequences for women, LGBTQ+, and BIPOC employees, as they are disproportionately targeted by harassment and violence.

More generally, these findings have relevance for research on women’s political representation. This case study shows how substantive equality outcomes are difficult to achieve even in the presence of an approximately equal number of women and men legislators. Rather than view the Senate’s (in)actions on this issue as a failure of feminist actors to ‘act’, this study shows how institutional constraints can undermine new gendered rules which are nested on top of pre-existing, older rules.²⁷ As Mackay (2014, 551) argues, the: “stickiness of old rules (formal and informal) about gender... and the way

newness functions as a gendered liability provides a powerful explanation for why it is so hard to make gender reforms... stick.” *This examination of critical actors’ efforts to address harassment and violence in the Canadian Senate thus reveals that substantive gender equality outcomes must be hard fought for and are never guaranteed, despite the achievement of legislative gender parity.* This study makes clear that gendered (masculinized) biases are deeply embedded within institutions and that they do not necessarily vanish quickly or easily in the presence of more women legislators. Broader and deeper changes are needed beyond “adding more women” in order to uproot the “gendered logic of appropriateness” of Canada’s Senate, and of political institutions more generally.

At the same time, it is hopeful that the Senate will seek to address some of the problems that contribute to harassment and violence in the institution. In addition to the new policy, in February 2021 the Senate announced that it will offer voluntary unconscious bias training for all senators and employees (Ryckewaert 2021). The CIBA Sub-Committee on Human Resources is looking into potential changes to employment contracts for Senators’ staffers, while CONF is considering amendments to the Ethics Code. The introduction of these and potentially other new rules that address institutional culture would aid the new harassment and violence policy and help cultivate a more inclusive workplace. Although change has been incremental, these are signs that the Canadian Senate is willing to become a more inclusive and representative institution. The adoption of the recommendations made by inquiry actors on the Senate’s harassment and violence policy would contribute towards this goal, alongside a revisitation of pre-existing parliamentary rules through a gender and race-based lens.

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Endnotes

¹ This is in part due to the Senate appointments process of Prime Minister Justin Trudeau which prioritizes gender representation. As of January 2021, 58% of J. Trudeau's Senate appointments have been women, the highest percentage of any Prime Minister to date. See Raney 2020 for further information.

² The upper houses of Bolivia (56%) and Australia (51%) ranked higher. See Inter-Parliamentary Union rankings: <https://data.ipu.org/women-ranking?month=1&year=2021>

³ Senators are appointed by the Governor General on the advice of the Prime Minister. The *Constitution Act of 1867* specifies that a person must be at least 30 years of age, a citizen of Canada, own real property with a net value of \$4,000 dollars, and hold permanent residence in the province or territory to which they are appointed.

⁴ As of the time of writing, this policy is set to come into force after the appointment of a "designated recipient", and will repeal the existing 2009 *Senate Policy on the Prevention and Resolution of Harassment* in the workplace. "Designated recipient" refers to a person or work unit designated by the CIBA Steering Committee to whom a case is brought forward. The policy indicates that this person or work unit will be an "impartial third party" (Senate of Canada 2021a, 2).

⁵ At the time of writing the federal government was consulting with the provinces and territories on ratifying ILO Convention 190. The convention is set to come into force June 2021.

⁶ A workplace assessment report was requested by the Speaker after noticing a high turnover of employees in Meredith's office.

⁷ Other parliamentary debates and committee meetings have relevance to the Senate's handling of harassment and violence and are referenced where possible (e.g. debates on Bill C-65 and on Senator Don Meredith's behaviours).

⁸ Unfortunately, a number of committee meetings on the anti-harassment policy were held *in camera*, making it difficult to ascertain the range of issues that were raised and by whom in these spaces. Under the Rules of the Senate committee members are not permitted to discuss the contents of their reports with non-Senate personnel prior to tabling/presenting them before the Senate.

⁹ This does not include Senate debates on Bill C-65, for example.

¹⁰ With the exception of three questions posed to inquiry speakers, no back-and-forth debates took place in relation to this inquiry. In response to Senator Lankin's speech in February 2018, Senator Anne Cools questioned how rampant sexual harassment could be in the Senate considering that most senators are "old". Senator Cools has since retired from the chamber.

¹¹ As of the beginning of the 43rd Parliament. Senators Mitchell and Dyck were both appointed in 2005 and have since retired from the chamber. All other senators who participated in these inquiries were appointed in 2016 or later.

¹² This is not an exhaustive list of potential solutions proposed by institutional actors to address harassment in the Senate workplace in other debates, committee meetings, or in the media. Senator Verner also initiated an inquiry into the Senate's response to Don Meredith; since it was not directly related to the new anti-harassment policy the contents of these speeches are not included here, although they are discussed later in this report.

¹³ Section 28(1) of the bill's regulations specifies that an investigator must be trained in investigative techniques, have knowledge, training, and experience relating to harassment and violence in the workplace, and have knowledge of the *Canadian Human Rights Act*.

¹⁴ The Workplace Committee includes representatives from staffers employed by Senators, Senate Administration, and various applicable unions.

¹⁵ The initial committee composition included Senators Jaffer, McCoy, Moncion, Tannas and Tkachuk (3 women and 2 men). Committee composition would later change to Senators Saint-Germain (Chair), Tannas, Moncion, Munson, and Tkachuk (3 men and 2 women).

¹⁶ Rather than have the policy fall under the authority of the Senate as a whole, CIBA intends to have full authority over it which will allow the new policy to be "easily adapted to reflect evolving best practices" over time without requiring the Senate as a whole to modify it (Senate of Canada 2021b). CIBA voted unanimously to approve the 2021 policy. A technical motion to repeal the 2009 policy is forthcoming.

¹⁷ Interviewee 'B', February 25 2021.

¹⁸ Senator Josée Verner lobbied her CIBA colleagues frequently to provide financial compensation for Meredith's victims. See Tasker and Stefanovich 2019.

¹⁹ This rule was clarified in 2018 when Senator McPhedran was prohibited from using her office budget to hire a human rights lawyer to provide counsel to staffers who had been harassed in the Senate workplace.

²⁰ Disclosure would occur should a Senator face expulsion or suspension as these disciplinary actions require a vote by the Senate. While a handful of senators who have not been convicted of a crime have been suspended in the past (most recently Senator Lyn Beyak), no senator has ever been expelled.

²¹ As a result of the #MeToo movement women have spoken out about their own NDAs in other workplaces. NDAs can prohibit victim/survivors from speaking to current or past employees, the media, friends and even families and partners about their abuse. See Perman 2018. Without knowing the details of the Senate's NDAs it is not possible to know what conditions are generally imposed upon employees in these confidential agreements.

²² The current composition of CONF is 2 women and 4 men.

²³ At the time, Beyak faced the possibility of expulsion from the chamber after Senator McCallum had introduced a motion asking her colleagues to expel her. Beyak has a history of making anti-Indigenous, racist remarks and comments that many, including several Indigenous senators and community leaders, found offensive.

²⁴ The Rules of the Senate define issues of privilege as an "allegation that the privileges of the Senate or its members have been infringed"; these must be decided upon by the Senate. (Senate of Canada 2021a, 7).

²⁵ Interview 'C', February 26 2021.

²⁶ Interview 'A', August 10 2020.

²⁷ Future gendered research on the Senate might consider how recent rule changes – such as the reduction of some formal partisanship ties in the chamber – shape actors' capacities to advocate for gender and racial equality issues, providing potential new opportunities for coalition-building around such issues.