

Senate Standing Committee on Legal and Constitutional Affairs

Parliament House

CANBERRA ACT 2600

Thank you for the opportunity to make a submission to the Committee regarding the proposed Defence Amendment (Call Out of the Australian Defence Force) Bill 2018.

Re: Defence Amendment (Call Out of the Australian Defence Force) Bill 2018

As an Australian citizen and passionate advocate for the environment, I am extremely concerned about the proposed amendments, as they will likely result in the erosion of civil liberties over time.

Expanded ADF and Commonwealth Ministerial powers could have significant implications for individuals and organisations, including environmental organisations, undertaking protest or other activities in defence of environmental and human rights - including the rights of First Nations Australians in relation to cultural and environmental heritage.

The definition of what would warrant an ADF call out and response including ‘domestic violence and terrorism’ are not significantly clear to rule out this legislation being utilised in the future to target environmental activists. This could include individuals and organisations protesting against projects such as the Adani coal mine, and oil and gas exploration and extraction across Australia.

Recommendation: Revoke the Bill

Maintaining Australia’s current level of civil liberties is integral to maintaining a safe and fair society, in which individuals and organisations are able to speak and act freely against threats to human and environmental rights. State run police and other security forces are adequately equipped to respond to security situations.

At minimum, this Bill must be returned for redrafting to explicitly specify that ADF call-out cannot be used in circumstances involving individuals or organisations concerned about threats to human or environmental rights. This would be to avoid the likely slippery slope of characterising environmental activists - such as those protesting against the Adani mine - as environmental ‘terrorists’. My concerns are outlined in greater detail below.

Environment

The Bill aims to “enhance the ability of the ADF to protect states, self-governing territories, and Commonwealth interests, onshore and offshore, against domestic violence, including terrorism.” Interpretation of Commonwealth interests could be extended to the desire to see certain infrastructure projects go ahead - such as the Adani coal mine - and see ADF call outs to prevent peaceful actions against such projects.

The building of gas, oil and mine infrastructure results in significant environmental damage and contributes to our carbon emissions. Public protest has in the past halted such damaging projects. It is in the best interests of the environment, Australian citizens and future generations that freedom of speech and movement be preserved going forward without fear of a possible ADF response.

Safety of Australian citizens

Subsection 51 allows the ADF to detain individuals, and use lethal force in some circumstances - this could see the future justification of civilian deaths or detention of individuals at the hands of the military, including when deemed necessary to 'protect declared infrastructure against the domestic violence or threat'. The lack of clarification in the bill could, as described above, lead to the use of force against citizens in the case of them actively protesting against significant infrastructure projects.

Similarly, proposed subsection 46 provides a range of additional powers to the ADF, including the power to search persons, locations or things that may be seized in relation to a call out order. Dependent on the nature of the call out order, this could see the civil liberties seriously infringed upon, resulting in an increased environment of fear between Australian security forces and the community.

Erosion of civil liberties

In combination with other recent legislative amendments, such as those to the National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018, Australia is facing a significant challenge to important civil liberties. The right of Australian citizens to undertake protest or challenge the views of the government is a bedrock of our nation, and something of which we should be proud of and grateful for.

We should not take our current civil liberties lightly - allowing the ADF to respond to situations located anywhere in Australia without the approval of State governments could contribute to the erosion of our democracy. Increased control of State affairs by Commonwealth Ministers is of significant concern.

Further, the definition of what is a 'reasonable and necessary' incident to justify ADF call out, seizure of items, or use of lethal force is open to interpretation and liable to alter over time, and could trigger a movement towards militarisation and increased use of force by security forces in Australia.

At best, Australian citizens will become increasingly fearful of speaking up in the face of injustices, concerned that the ADF could seize property, detain or use force to prevent civilian activity. At worst, over time the introduction of such legislation and increased power of the military within a domestic environment will increase the likelihood of a future military coup.

In summary, any legislation which increases military powers and challenges civil liberties must be taken extremely seriously. Having considered the amendments laid out in this bill, I am significantly concerned about possible future threats to civilians who wish to undertake protest activity to protect human and environmental rights, and ask that you reconsider the need for this bill.

Thank you for considering my submission,