



Transformation Empowerment Advocacy Relief

TEAR Australia submission to the Joint Standing Committee on Electoral Matters opposing the Electoral Funding and Disclosure Reform Bill

1 TEAR Australia

TEAR Australia (TEAR) is a Christian aid, development and advocacy organisation that has worked for more than 45 years with local partner organisations in Africa, South Asia, South-East Asia and the Pacific. TEAR is currently working in 24 countries, with over 75 partners. TEAR is focused in places of great need, partnering with local Christian agencies to end poverty, challenge inequality and build sustainable communities. TEAR seeks to address both the symptoms and the causes of poverty through projects that produce tangible, lasting changes.

TEAR represents a constituency of more than 60,000 Christians across Australia. Our passion for good development is coupled with a desire to inspire Australian Christians to embrace a biblically shaped response to poverty and injustice. Our constituents are actively engaged in advocating, educating and petitioning for change in a variety of different contexts—churches, schools, MP's offices and amongst their own local communities. TEAR's engagement in Australia can be described as a movement of Christians actively living and advocating for a just and compassionate world.

TEAR is registered with the Australian Charities and Not-for-profits Commission (ACNC), holds agency-wide Deductible Gift Recipient (DGR) status with the Australian Tax Office (ATO) and is approved under the Overseas Aid Gift Deduction Scheme (OAGDS) from the Department of Foreign Affairs and Trade (DFAT). TEAR's work is guided by the following codes of conducts and standards: Australian Council for International Development (ACFID) Code of Conduct, DFAT accreditation, Micah Network member, Integral Alliance member, and a first foundational partner with the Christian Ministry Advancement Standards Council .

2 Erosion of the right of charities and not-for-profits to undertake advocacy

RECOMMENDATIONS:

The Bill erodes, rather than enhances our democracy.

TEAR calls for a complete redraft of the Bill to exclude charities and not-for-profits.

TEAR is very concerned that the Bill will not improve democratic process but instead mute the voices of Australian charities and not-for-profits. The Bill proposes unprecedented restrictions on commentary and advocacy on public issues by Australian charities and non-profit organisations. This clampdown is unwarranted and out of step with community expectations who overwhelmingly (80%)^v support charities having a public voice on issues they were established to address, and have high confidence and trust in charities and their ability to stand up for people and issues (86%)^y. TEAR submits that a complete redraft of the Bill is required to protect Australian charities and not-for-profits and achieve the stated aim of blocking foreign entities from influencing Australian political parties.

We submit that the Bill attempts to shut down legitimate comment on matters of public interest by defining a charity under the Electoral Act as a 'political campaigner', increasing vulnerability of accusations of a charity being partisan and thereby disqualifying them from charitable status. Charities undertaking advocacy has been recognised as both a legitimate activity and one essential to our system of parliamentary democracy. It is an important approach which charities can use to address the causes of social and environmental problems, rather than just the symptoms – and this often requires policy change. We are also very concerned that the Bill seeks to restrict the funding sources available to charities, and in the broad classification of political expenditure' and 'political purposes'.

The Bill erodes, rather than enhances our democracy. It is submitted that the most workable way of excluding charities and not-for-profits from the complicated and particular drafting regarding charities is via a comprehensive redraft of the Bill. Because of the onerous reporting requirements for 'political campaigners' and 'third party campaigners', it would not be sufficient to just exempt charities from the ban on foreign donations, as there would also need to be changes to the requirements imposed on these new categories.

3 Why advocacy is vital to TEAR, a Christian poverty focused organisation

For TEAR, advocacy is at the heart of our mission as a Christian aid, development and advocacy organisation and it is part of the Christian biblical mandate to seek justice, love our neighbour and speak up for those in poverty. The nature of TEAR's work is global, reaching between and resourcing both Australian Christians and global Christian partners on shared issues of justice, poverty and caring for God's creation.



Bishop Desmond Tutu once said that, 'There comes a point where we need to stop just pulling people out of the river.



We need to go upstream and find out why they're falling in'.^v



Christians adopt a cause and advocate because of the urging in the Bible – for example Isaiah wrote, 'Learn to do right; seek justice. Defend the oppressed. Take up the cause of the fatherless; plead the case of the widow.'^v TEAR's rationale for involvement in advocacy work includes:

- Being motivated by the compassion of Christ;
- Fulfilling the mission of the church to bring good news – which includes speaking up against injustice, working for change and looking after God's creation;
- Viewing people as agents of change whose participation is necessary for decision-making affecting their communities;
- Addressing root causes of poverty and injustice and providing long-term solutions.

The Bill threatens the ability of organisations such as TEAR to undertake advocacy and fulfill mission.

4 Current legal regime for charities and not-for-profits effective

RECOMMENDATIONS:

International philanthropy to charities is appropriate for legitimate and lawful advocacy.

Further consultation should be undertaken with the not-for-profit sector.

A detailed regulatory impact statement should be completed to consider the full impact and compliance costs of any changes.

TEAR is very concerned that provisions in the Bill cut off a vital and complementary source of funding for Australian charities, which are generously supported by domestic giving and supplemented with international philanthropy. The global church and international networks of development organisations need to work transnationally to achieve mission effectiveness and tackle systemic advocacy challenges across borders. The global church has a proud tradition of collaborating and sharing resources on advocacy across borders, such as the Jubilee 2000 campaign which resulted in cancellation of debts owed by the world's poorest countries. International philanthropy to charities is appropriate for legitimate and lawful advocacy.



The current legal regime between electoral and charity law is robust in outlining the purposes for which charities and not-for-profits can legitimately be established, as well as, in ensuring charities must demonstrate that they do not have a ‘disqualifying purpose.’^v Furthermore, the regulatory environment does account for other, relevant laws, which further specifies prohibitory conditions on charitable organisations in pursuing their purpose.^x The ACNC also regulates not-for-profit organisations and can ensure adequate protections and safeguards around advocacy activities. No further changes to the legal regime regarding the charitable and not-for-profit sector are justified or necessary.

TEAR opposes the imposition in the Bill of new and burdensome reporting requirements as part of the introduction of the ‘Political Campaigner’ category. We accept the importance of transparency and accountability however contend that existing charity and electoral laws already set appropriate boundaries for charitable organisations, including the requirement to be non partisan. TEAR already seeks to balance quality and a low cost administration with compliance and accreditation with the ACNC, ATO, DFAT, ACFID and others (see p.1), and is concerned about further administrative cost and red tape. It is recommended that the Bill be withdrawn and further consultation undertaken with the not-for-profit sector, and a detailed regulatory impact statement should be completed so that the full impact and compliance costs of any changes can be properly assessed and considered.

SUMMARY:

Whilst a transparent and effective framework for regulating third parties in the electoral process is understandable, the Bill should not be progressed in its current form.

We submit it is vital for registered charities and not-for-profits to have the ability to both receive international philanthropy for the important work they do, and participate in democratic processes by educating Australians about the policies of political parties and candidates.

- ***The Bill erodes, rather than enhances our democracy.***
- ***TEAR calls for a complete redraft of the Bill to exclude charities and not-for-profits.***
- ***International philanthropy to charities is appropriate for legitimate and lawful advocacy.***
- ***Further consultation should be undertaken with the not-for-profit sector.***
- ***A detailed regulatory impact statement should be completed to consider the full impact and compliance costs of any changes.***

TEAR Australia

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for Matthew Maury, 24 January 2018

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ⁱ M Cah Network: www.mcahnetwork.org

ⁱⁱ Integra Alliance: www.integraalliance.org

ⁱⁱⁱ CMA Standards Council: www.cmasc.net.au

^{iv} 'Australians want to hear the voices of charities – politicians take note'. See <https://probonoaustralia.com.au/news/2017/11/australians-want-hear-voices-charities-politicians-take-note/>

^v In 2015 research commissioned by the ACNC, charities were third most trusted institutions and organisations after doctors and police, and ahead of the High Court and Parliaments: <http://acnc.gov.au/trustandconfidence>

^{vi} Image source: Tearfund Advocacy Toolkit https://learn.tearfund.org/en/resources/publications/roots/advocacy_toolkit/, p. 21

^{vii} Isaiah 1: 17 (NIV translation)

^{viii} Defining purpose includes: a purpose to promote/oppose political parties/candidates; a purpose to engage in or promote unlawful activity; a purpose to engage in or promote activities contrary to public policy (which does not include opposing specific policies of the Government). See ACNC Fact Sheet http://www.acnc.gov.au/ACNC/Reg/Charities_effects_and_advocacy.aspx

^{ix} In regards to OAGDS, for example, organisations must demonstrate compliance with the 2006 Anti Money Laundering/Control of Terrorist Financing Act, and the Criminal Code versus extraterritorial powers in relation to child sex tourism.