



GLOBAL HEALTH ALLIANCE MELBOURNE

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
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Dear Committee Secretary

INQUIRY INTO THE PROVISIONS OF THE FOREIGN INTERFERENCE TRANSPARENCY SCHEME BILL (THE 'BILL')

The Global Health Alliance Melbourne thanks you for the opportunity to make this submission and for the extension of time permitted to us.

In this submission we refer to:

- the *Foreign Interference Transparency Scheme Bill 2017* as amended by the draft changes issued on 8 June 2018 as **FITS**; and
- the *National Security Legislation Amendment (Espionage and Foreign Interference) Bill 2017* (as it is proposed to be amended according to the Committee report of 7 June 2018) as **EFI**.

We discuss both these Bills because we are told that they are interconnected and need to be considered together.

1. Background

The Global Health Alliance Melbourne (GLHAM) is comprised of 32 Australian-based organisations that provide global health services. We attach a list of our members at the end of this submission. As you will see, our members include corporations, medical research institutes, universities and international NGOs.

Most of our member organisations receive funding from foreign sources, including foreign governments and foreign-based philanthropists.

Our role is to identify and support non-traditional partnerships to improve outcomes for member organisations and their clients, including programmatic partnerships, new funding or business opportunities; to achieve global health equity outcomes.

GLHAM brings together a diverse mix of individual organisations across the academic, public and private sectors to increase health impact and outcomes, and strengthen the capability of the global health and development sector specifically in Melbourne, indigenous Australia and the Asia-Pacific Region.

We recognise the enormous support that the Federal Government has provided to the medical research sector in Australia, implementing many significant initiatives such as the Medical Research Future Fund and supporting the development of medical research and public health programs to improve the health of all Australians.

We also understand the concerns the Government holds in relation to the possibility of some types of international donations undermining the Australian political landscape.

However, having said that, we wish to draw to the attention of the Committee what we believe to be the significant unintended consequences of the proposed Bills on the health promotion, international development and medical research activities of our member organisations.

These unintended effects result in part from the incompatibility of the self-registration regime of FITS with the requirements of many international charitable organisations which provide funding to our members (without directing our members' activities).

Given that, to the best of our understanding, the international organisations share the same aims, in implementing these requirements, as does the Australian government in proposing the Bills in question, we submit that it is appropriate to amend the proposed legislation in order that those shared aims can be achieved for the benefit of all parties.

We emphasise that Australian measures to address foreign influence should not undermine the key role of charities and other non-government organisations in supporting our democracy nor should they constrain public interest advocacy by charities and not-for-profit groups.

It is of great concern to our members that their normal health research and related activities are potentially subject to criminal penalties under both Bills simply because of association with foreign international organisations, health institutions or charities.

The proposed Bills have been drafted far too widely and without enough consultation, nor enough consideration of the Bills impact on civil society.

2. Concerns

Under the proposed FITS Bill, we believe that many of the entities our members work with and receive funding from (foreign governments at the local, sub-national and national levels) could be defined as 'foreign principals.'

We do not believe that any of our members has a direct principal and agency relationship with those funding bodies, and therefore we do not believe that any of our members is required to self-register under

FITS, as amended. However, because of the vague terminology used in FITS and the lack of clear definitions, the scope of the legislation remains unclear and continues to be a matter of considerable concern to our members, particularly in the light of the criminal penalties imposed for non-registration. While our members are not individuals who could be imprisoned, they do not wish to incur criminal liability for ordinary activities.

We stress that these concerns should be addressed through clearer legislative drafting and not through explanatory documents or guidelines.

Our understanding is that all of the following four elements need to be in place for the FITS Bill to apply. However, as mentioned below, there is considerable uncertainty in relation to many aspects of these crucial elements.

1. The person is carrying out any one (or more) of: communications activity, government lobbying, political lobbying or disbursement activity (all defined widely in the Bill, and note that government lobbying now includes lobbying a political campaigner as registered under the Electoral Act - which will not be a government body, but could be a charity, think tank, etc; and
2. The person is doing this for the primary or substantial purpose of influencing a political or governmental process (see section 12) or a process in relation to a political campaigner; and
3. They are doing this 'on behalf of' (as widely defined - section 11) some other party; and
4. That other party is a 'foreign principal' (as defined – section 10).

2.1 Clarifications required

- (a) We support the submissions of other civil society and human rights organisations, that section 11 of the FITS Bill should be further amended by deleting subclause 11(3) and removing remaining references in subclause 11 (1) to relationships that do not amount to a direct principal/agency relationship (such as 'arrangements').
- (b) We also support the submissions to the effect that the distinction between influencing a political or government process and a political or government decision still needs to be clarified. The confusion as to how these things can be separated will result in a marked chilling of free political communication about matters of concern to our members, being Australian and global health initiatives.

We note in this context that the Bill fails to recognise the essential and crucial difference between business organisations that work in their own interests and organisations like those of our members that work in the public interest. Our members' contacts with governments and with foreign parties is not self-interested but is for the benefit of Australians and the populations in developing countries, generally. Such contacts should not be captured under 'political or governmental influence' in section 12 and a specific exemption may be necessary to make this clear.

2.2 Inconsistency with terms of funding

Should any of our members – in complying with the FITS legislation – must register as a ‘foreign agent’ – they would then be precluded from receiving grants from organisations such as the Bill and Melinda Gates Foundation. That Foundation expressly forbids ‘political activity’. While we do not believe that our members carry out political activity in relation to Alliance matters, registration as a ‘foreign agent’ would give the Foundation a contrary message.

Similar concerns in relation to other international bodies are described in the attached document entitled: *“In whose interest? Silencing charities in Australia”* (Attachment A), which includes case studies from some of our member organisations.

3. Further Key issues with the proposed Bills

3.1 Under FITS and EFI, both the definitions of ‘foreign principal’ and ‘foreign political organisation’ are too broad and/or unclear:

- a. FITS and EFI have different definitions of “foreign principals” as follows:
 - i. FITS: foreign governments, foreign government-related entities and individuals, and “foreign political organisations” – but not foreign businesses unless they are associated with a foreign government;
 - ii. EFI: foreign governments, foreign public enterprises, international organisations, and “foreign political organisations” – but not foreign businesses unless they are associated with a foreign government;
- b. “Foreign political organisations” under FITS is currently defined to “include a foreign political party”. This broad definition could include international advocacy organisations that are not aligned with a foreign government or political party.

3.2 The fact that the EFI definition of ‘foreign principal’ captures international organisations such as UN and WHO bodies, is extremely undesirable and problematic, given the extensive communications between most of our members with such bodies in relation to our members’ normal activities. There appears to be no policy reason why such bodies should be regarded as ‘foreign principals’ under EFI. The argument that otherwise there is a ‘gap’ in the legislation through which espionage may be carried out is a faulty argument given the complete exemption of foreign businesses from the definitions of ‘foreign principal’ under both Bills. It is through that gateway in the Bills that any espionage would be channelled.

3.3 We are also concerned that inconsistencies in definitions suggest clauses will capture, or appear to capture, the activities and work of many charities and non-for-profit organisations like the Bill and Melinda Gates Foundation as ‘foreign’ parties that our members should associate with at their peril.

3.4 We recommend that government should establish a consistent and clear definition of “foreign political organisation” across both Bills that ***excludes international charities and advocacy groups***, which will protect and ensure:

- a) that charities and not-for-profit groups are not subjected to a greater compliance burden than they currently are;
- b) the ability of charities and not-for-profits to use funding (including international funding) for issues-based advocacy such as health promotion, which should not be constrained or restricted; and

- c) the freedom of charities and not-for-profits to cooperate on issues-based advocacy to advance issues of public interest, including working with non-Australian citizens and non-permanent Australian residents.

3.5 Penalties and implications for charities and not-for-profit organisations include: the burden of registration; criminal sanctions for non-compliance; unintended consequences of registering as an agent of a foreign government or other foreign principal even when it is not acting at the foreign principal's direction (unless the amendments we have called for are included in the FITS legislation).

3.6 Exemption from registration requirements only apply for commercial or business pursuits, and professional industry networks, but not for charitable and public interest work. Charities and not-for-profit groups should not be subject to extensive regulatory controls, administrative requirements or criminal offences which do not apply to other third parties such as industry associations and businesses.

We suggest that an exemption along the lines of the new section 29A should be added in relation to academic, research, charitable and public interest organisations, networks and associations like our own.

4. Curtailing the activity of Australian Universities

Three of our members are Australian Universities: Deakin University, University of Melbourne and Monash University. In addition to the recommendations described above, we support the recommendations made by Universities Australia:

Recommendation 1:

Universities Australia recommends that the Government not proceed with the Bill until it has undertaken a thorough consultation process with stakeholders, particularly the higher education sector.

Recommendation 2:

Universities Australia strongly recommends that the Parliament provides a specific exemption for activities that are predominantly academic or scholastic in nature. At a minimum, such a definition should include teaching and research activities, including the communication of research findings by any means.

Recommendation 3:

Universities Australia recommends that proposed section 11 be amended to remove references to 'collaboration'.

Recommendation 4:

Universities Australia recommends that expanded exemptions for legitimate business dealings and development be included in the Bill. This should include the normal conduct of business dealings of both commercial enterprises and the already heavily regulated, legitimate core business of non-profit organisations such as universities.

Recommendation 5:

Universities Australia recommends that legitimate advocacy on behalf of international students and other vulnerable groups (such as temporary workers) be exempted from this scheme.

We would be happy to discuss these issues with you further.

Yours faithfully,

Misha Coleman
Executive Director
Global Health Alliance Melbourne

Member Organisations

 Denotes Gold Sponsors



IN WHOSE INTEREST? SILENCING CHARITIES IN AUSTRALIA



How proposed new laws would hurt
Australian charities and civil society

JUNE 2018

Hands Off Our Charities is a coalition of leading Australian charities spearheading opposition to laws that will silence Australians, hurt non-profits, and avoid accountability.

Members of the coalition include 350.org Australia; ActionAid; Amnesty International; Anglicare Australia; APHEDA: Union Aid Abroad; Australian Conservation Foundation; Australian Council for International Development; Australian Council of Social Service; Australian Marine Conservation Society; Australian Youth Climate Coalition; Beyond Zero Emissions; Campaign for Australian Aid; Care Australia; Caritas Australia; ChildFund Australia; Community Council for Australia; Consumer Action Law Centre; Digital Rights Watch; Environment Victoria; Environmental Justice Australia; Greenpeace Australia; Human Rights Law Centre; Jesuit Social Services; National Association of Community Legal Centres; Nature Conservation Council; Oaktree Foundation; Oxfam Australia; Public Health Association of Australia; Queensland Community Alliance; Queensland Conservation; RESULTS International; Save the Children; Sunshine Coast Environment Council; The Pew Charitable Trusts; Uniting Church Australia; UnitingCare Australia; and WWF.



Web: www.handsoffourcharities.org.au

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IN WHOSE INTEREST? SILENCING CHARITIES IN AUSTRALIA

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INTRODUCTION

In 2017, the Australian Government introduced a package of Bills that it said would address foreign interference in Australian politics. These are:

- The Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill
- The Foreign Influence Transparency Scheme Bill
- The National Security Legislation Amendment (Espionage and Foreign Interference) Bill.

From the university sector, to charity groups, to free speech think tanks, to the journalists' union, there is widespread concern about this package of bills. The Foreign Influence Transparency Scheme Bill, for example, would require groups to register every time they undertake communications or lobbying activities on behalf of or with the knowledge of a 'foreign principal'. This Bill would have serious impacts on the work of groups like WWF-Australia, Pew Charitable Trusts and Oxfam Australia, who work with international partners. In fact, the definition of 'foreign principal' is so broad, that it may require those who work for these organisations to register as an agent of international governments if they so much as make a presentation to them that refers to planned activities.

These requirements may be near impossible to adhere to in practice, yet there are very serious criminal penalties and jail terms for non-compliance. There are also serious questions about the reputational damage to independent charities and not-for-profit community groups of being required to register as agents of foreign governments, when there are any only very tenuous links between them. While such a requirement offers little benefit for national security, it may come at a high cost for affected organisations.

The National Security Legislation Amendment (Espionage and Foreign Interference) Bill 2017 proposes significant jail terms for information communication offences that are framed so broadly that lawyers warn they will capture "a range of benign conduct that may not necessarily amount to harm or prejudice to Australia's interests".

United Nations human rights officials have warned that measures in the Espionage and Foreign Interference Bill will severely limit the freedom of expression and "are inconsistent with Australia's obligations under Article 19 of the International Covenant on Civil and Political Rights and related human rights standards".

They also state that “we are gravely concerned that the Bill would impose draconian criminal penalties on expression and access to information that is central to public debate and accountability in a democratic society”.

These bills were originally designed to stop foreign donations to political parties and foreign interference in Australian politics, but legal experts say they’ve become too broad and the government needs to go back to the drawing board. It is also clear that these laws do nothing to deal with undue influence on the political process from vested interests.

That’s why many of Australia’s most respected organisations and institutions have come together as part of the Hands Off Our Charities alliance. This report surveys some of Australia’s best-known charities to explore how these bills will impact on their work. Our findings show that these Bills will have a chilling impact on advocacy - and hurt the core mission of charities and community groups.

**These laws would
impose draconian
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OUR FINDINGS

Recent political commentary implies that there is a neat division between advocacy and service delivery for charities and non-profits. But in profiling some of Australia's most trusted charities, our findings show that charitable missions are often closely linked to advocacy roles.

To fulfil its mission, a charity may need to represent its cause or its community in policy development. Others might find that their services are put at risk by onerous rules that target them and stop them from doing their job effectively. Our collection profiles show how these programs will be put at risk by this package of bills:

- The ACF has played a key role in the development of the Murray-Darling Basin Plan. **Under the proposed bills, ACF would find it much harder to amplify stakeholder voices and support communities in far west NSW**, who often report feeling forgotten by their governments.
- The Burnet Institute has lobbied the Federal Government to include new direct acting antiviral drugs for the treatment of hepatitis C on the Pharmaceutical Benefits Scheme (PBS). Because this work is considered 'advocacy', **this legislation could jeopardise the Institute's efforts to have medicines subsidised for people in need.**

- The Pew Charitable Trusts supports Ngadju leaders to travel to Perth and Canberra to meet with government officials, MPs and media representatives. This is to advocate for increased and longterm support for Indigenous Ranger programs and associated land management. Much of the funding for the Ngadju work has come from Pew funds held in the United States. **Under this package of bills, international funding for Ngadju to tell their stories directly to the centres of political power would be banned or highly constrained.**
- The work of Anglicare Australia network members, who provide emergency relief and disaster recovery, will be put at risk by new rules on how charities can collect donations. **This could mean that Anglicare Australia network members will struggle to respond to events like the recent Tathra bushfire.**
- To help protect iconic penguins in the Antarctic, WWF-Australia receives funding from international philanthropy and WWF international offices. Under this package of bills, WWF-Australia could not use international funding to advocate for conservation in Antarctica or the Southern Ocean. **WWF-Australia's international collaboration to save these penguins - and the generous donations from WWF supporters - are now at risk.**

There has been a great deal of commentary on advocacy as a legitimate tool for charities to fulfil their charitable purpose. But the current legal framework recognises that advocacy is essential to the work of charities and other community organisations. In 2010, a landmark High Court judgement involving Aid/Watch found that charities could have a dominant purpose of influencing and engaging in public “‘agitation’ for legislative and political changes.” The decision applied the right to freedom of political communication in Australia, which the High Court had previously defined as a constitutional precondition for representative democracy. In the Aid/Watch case, the High Court found that “the generation by lawful means of public debate... itself is a purpose beneficial to the community.”

Following this, the Charities Act 2013 recognised that charities can advance their purpose by engaging in public debate. Systemic advocacy is recognised and protected under this definition. And while campaigning for a party or candidate is rightly prohibited, charities are permitted to compare the policies of both parties and candidates. At the heart of this existing legal framework is a recognition that advocacy is an essential, and often the most effective, means of achieving charitable purposes.

For most charities, tackling poverty and inequality entails not only providing services to assist people at coalface of these issues, but also advocating for policy and legislative change to address the root causes. Without the ability to influence policy and social attitudes, many charities would simply not be able to deliver on their mission. Our findings show that the new bills would dismantle this legal framework because:

- Charities and NFPs will not be able to use international philanthropy to fulfill core parts of their mission.
- The bills target charities by creating new definitions that cut across existing ones. For example, these laws would redefine political activity for charities.
- Charities and NFPs will be regulated much more heavily than businesses, lobbyists and industry groups.
- Charities and non-profits will find it harder to cooperate on issues-based advocacy.
- Debate will be weakened by silencing interests that are represented by charities in the public arena, and by restricting on civil society groups representing the views of large numbers of Australians. Public debate will be further dominated by those who already enjoy access and privilege.

CASE STUDIES

Murray-Darling Basin

Without the effective advocacy of organisations like ACF, the Murray-Darling Basin Plan would not have been the historic multi-partisan, multi-jurisdictional agreement that it is. Without the advocacy of organisations like ACF and the communities it represents, we would not have a courageous plan to replenish the largest river system that supports life on our dry continent.

Civil society organisations played a critical role in water reform. During the Murray-Darling Basin Plan process, ACF was the leading independent environment advocate in the public arena and a leading consensus builder around the stakeholder table. ACF was integral in articulating the need for integrated and strategic framework for water reform in the first place, and then was key in developing the government response as a key stakeholder in the Murray-Darling Basin Plan process. As a result, 500GL was recovered for the Basin through the Living Murray Initiative during the era of the Howard Government, and a further (up to) 3200 additional GL under the Murray-Darling Basin Plan under the Gillard Government. This water will improve the health of the basin and secure water for the environment, farmers and urban communities.

In other words, it will help secure the future for Australia. ACF continued to play a key role, at the invitation of Government, in building a consensus across the community for support for a balanced policy that had a social licence and environmental credibility.

However, there were moments when political courage wavered, and the advocacy of organisations like ACF were instrumental in steadying the hand of politicians and parties to get the Basin Plan across the line. One such time was in 2012, when there was a reticence by South Australian Liberal party politicians to sign a pledge to show support a plan that “ends the overuse of water and returns enough flow to the Murray-Darling to restore its health.” ACF worked to bring all parties to a unified position, to minimise the chances that the negotiations would fail.

The political parties knew that ACF’s position represented their constituents’ love of the Murray and that they would be held accountable for the degree to which they supported the Murray River.



Without the advocacy of organisations like ACF, the Murray-Darling Basin Plan would not have been the historic multi-partisan, multi-jurisdictional agreement that it is

As a result, many politicians pledged their support in favour of their constituents and of the river. This is democracy in action.

The Basin plan was finalised in 2012 and ACF continues to put forward the case for repair of the Murray-Darling river system. Since then, the Basin Plan may have left the headlines, but organisations like ACF continue to play an important role in keeping a vigilant watch on its implementation and alerting the community when these hard-won policies promised to them are being threatened or undermined. Following a year of investigation by ACF and the Environmental Defenders Office NSW, ABC's Four Corners covered an explosive story on water theft, corruption and mismanagement. Communities were ready and trained by ACF to talk to media about the impact that this theft and mismanagement had on them, which led to several inquiries and investigations, a state Royal Commission and the resignation of senior public servants.

Last year ACF developed the Rivers Fellowship, a nine-month training program that empowers local Basin leaders passionate about the river in how to engage with the political system. Rural communities in the Murray Darling Basin are at the cold face

→ Kate McBride on the dry river bed of the once mighty Darling river. Communities in far west NSW often report feeling forgotten by their governments and need the support of organisations like ACF to help amplify their voices.



of government decisions on water, and can often feel under-represented in parliament. While Basin Plan negotiations are no longer front of mind for parliamentarians, regulatory decisions are being made that impact the economic and environmental wellbeing of millions of Australians. ACF organised a trip to Federal Parliament so that local advocates could engage with the heart of our nation's democracy and talk to their elected representatives about the need to fulfil their promise on the Basin Plan. They delivered 24,177 petition signatures and gained support from across the political spectrum.

Developing grassroots advocacy is essential to a healthy democracy. The more communities who have the skills to effectively meet with politicians, engage with media and mobilise their communities, the better represented they will be. The proposed changes to charity laws would prevent organisations like ACF being able to support citizens taking collective action and engage meaningfully in their own democracy.

Treating hepatitis C

Alongside other parties, Burnet Institute lobbied the Federal Government to include new direct acting antiviral drugs for the treatment of hepatitis C on the Pharmaceutical Benefits Scheme (PBS). With more than 225,000 people infected with hepatitis C in Australia, they argued that improving access to new hepatitis C treatments would improve health outcomes for those affected.

The parties also showed through modelling the significant benefits to the Australian economy by reducing the infection rate and cost savings to the health care budget from the reduced burden of disease. As a result, these new direct acting antiviral medications were made available on the PBS on 1 March 2016 at a cost of more than one billion dollars to the Federal Government.

Burnet Institute has received more than \$3million AUD from a private pharmaceutical company based in the USA, to support the Institute's hepatitis C treatment and prevention program (TAP). This research program introduces these new direct acting antiviral hepatitis C treatments to participants without resorting to hospital admissions.

The study assesses whether implementing this approach in a cohort of people who inject drug in Melbourne reduces the rate of new transmissions and prevalence of hepatitis C in the community.

The proposed new legislation risks undermining important international medical research partnerships, and critical health promotion activities, which benefit the Australian and international community. Limiting internationally-funded organisations such as Burnet from engaging in lobbying and public debate on critical and sensitive public health issues will have widespread implications for the advancement of medicine and the efficacy of the health system within Australia. This example shows that, contrary to the intentions of the Bill, how international funding for medical research can have a positive influence on the Australian health system.

Furthermore, multiple ambiguities around specific definitions contained within the bill will create uncertainties. There is a concern that many health-focused charities will be unduly implicated in the bill and have significant components of their work curtailed or eliminated.



If humanitarian workers are forced to register as “Foreign Agents”, this could hurt Oxfam’s ability to work with communities in crisis

← Oxfam humanitarian staff visit South Sudan following reports that one in five households could be hitting famine levels of hunger

Humanitarian, emergency response and disaster preparedness projects

Oxfam is a respected global confederation of charities. It believes that all lives are equal and no-one should live in poverty. Oxfam is on the ground, empowering communities to tackle poverty in 90 countries around the world.

Were the Foreign Influence and Transparency Scheme Bill 2017 to be voted into law, Oxfam Australia is seriously concerned that it would have a detrimental effect on much of this work. Any Oxfam Australia project, humanitarian or emergency response, and disaster preparedness work funded by Australian Aid through the Department of Foreign Affairs and Trade (DFAT) would be affected.

Oxfam Australia has seven humanitarian, emergency response and disaster preparedness projects currently funded by Australian Aid through the Department of Foreign Affairs and Trade (DFAT) that are implemented in other countries. Examples include emergency responses in South Sudan and Bangladesh, providing people with water, sanitation and other essential aid. Contractually, Oxfam Australia is responsible for monitoring these projects and ensuring they comply with agreed obligations and DFAT policies and standards.

If enacted, the FITS Bill would require any staff member who either travels to another country to do a compliance or monitoring visit, or communicates with Oxfam staff in other countries as part of compliance and monitoring of these DFAT-funded projects to register as a "Foreign Agent" and report on the nature of each interaction with country office staff and delivery partners. These obligations would slow down disaster responses and any bureaucratic hold-up could affect delivery in circumstances where timing may be critical. Much of Oxfam's work is delivered by local staff but in the event of additional "surge" staff being needed, these often come from larger Oxfam affiliates, of which Australia is one.

Humanitarian work is seen to be impartial, independent and neutral. The requirement for humanitarian workers to register as "Foreign Agents" has the potential to erode trust and hurt Oxfam's ability to work in proximity with communities in crisis.

Please note: This scenario does not reflect the amendments proposed by the Attorney General on 8 June 2018.

Bearing witness to human rights abuses

Amnesty International Australia (Amnesty) is part an international organisation. Amnesty is an independent, global movement of people who campaign courageously for human rights. In more than 150 countries worldwide, over 7 million Amnesty activists stand together for justice, freedom, human dignity and equality. Around Australia, Amnesty has more than 700 local community, school and university groups. In 2017 alone, close to 300,000 supporters took action for human rights.

At home, Amnesty works closely with Indigenous communities and people seeking asylum to fight discrimination, unfair detention and to demand safety and a fair justice system for all. Amnesty also has very active women's and LGBTI activist networks campaigning on important gender and sexuality issues. Amnesty puts pressure on the Australian government to adopt laws that respect the human rights of all citizens and to meet international human rights obligations.

Bearing witness is a vital part of Amnesty's work internationally. Amnesty activists take many kinds of action to help build its campaigns: signing petitions, making donations, writing letters and emails, calling and meeting with elected representatives,

holding candlelight vigils and discussion forums, and having hundreds of conversations with people in local communities. Undertaking eye witness investigations is an essential complement to much of this work.

Amnesty sends experts on missions into countries where human rights violations are occurring, such as Syria and Myanmar, to investigate and report. It publishes this information at international human rights bodies, such as the United Nations, and with the media, to expose human rights abuses for the world to see. Internationally, Amnesty teams bring torturers to justice, change oppressive laws and free people jailed just for voicing their opinion. When a crisis occurs, Amnesty researchers can be on the ground within days, taking testimony and delivering first hand reports. It gathers the evidence as situations escalate and ensures its supporters and the wider community are informed and ready to act.

Bearing witness is also important to expose human rights abuse for which the Australian government bears some responsibility. Special trained Amnesty researchers have recently visited the Manus Island detention centre and Port Moresby to investigate

and report on human rights conditions of asylum seekers, including through carrying out interviews and other forms of data collection. This has led to greater transparency and accountability by the government here at home.

Across the course of Amnesty's 50-year history, it has campaigned on behalf of thousands of individuals, families and communities at risk. It has achieved positive change in approximately one third of those cases. Much of this work involves activists engaging with foreign governments and their representatives, and staff engaging in the processes of international organisations, like the Human Rights Council.

In 1984, following Amnesty International's campaign, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was adopted by the UN General Assembly. This meant that states were now required in International Law to take effective measures in the prevention of torture within their borders, as well as forbidding them to send people to any country where there is reason to believe that they will be tortured.

Amnesty's
most important
achievements can be
measured in human
lives – lives saved,
prisoners released,
threats averted. This
is the constant thread
which runs through its
history

Stephanie Grant,
Amnesty's first ever researcher

➔ Around Australia, Amnesty has more than 700 local community, school and university groups

In December 2017, eight years after originally signing this treaty, the Australian Government announced it had ratified the UN Optional Protocol to the Convention against Torture.

Amnesty is seriously concerned that under this Bill charities that hold the Australian Government to account on its human rights record could face criminal charges. The Bill would effectively muzzle human rights advocates who discuss their cause with representatives of foreign governments or with the United Nations (UN).

Human rights advocates from Australia regularly appear in front of United Nations bodies in Geneva or New York to report on Australia's progress in meeting international legal obligations or breaches of international law. Under this Bill, it may become a criminal offence to communicate with the UN in this way.

In its report into this Bill, the Parliamentary Joint Committee on Intelligence and Security (PJCIS) recognised human rights defenders' concerns that the Bill would criminalise whistleblowing on human rights abuses to bodies such as the UN Human Rights Committee. Despite this, the PJCIS declined to introduce

exemptions from charges of espionage or foreign interference for public interest charitable work, or for communication to international organisations such as the UN.

It is both outrageous and terrifying that Amnesty's investigations of potential human rights violations could be vulnerable to charges under national security laws. This not only leaves Amnesty researchers and their support teams vulnerable to charges that have significant criminal penalties and jail time associated with them, but will have a significant chilling effect on Amnesty's life-saving work.

This Bill, and the others in the foreign influence package, represents a clear instance of government overreach and a reprehensible attempt to shield government from the scrutiny of Australian civil society. Rather than protecting Australian democracy, if passed in line with PJCIS recommendations this Bill will seriously undermine it.



Amnesty's investigations of human rights violations could be vulnerable to charges under national security laws



Pew's philanthropy directly supports the wishes of the Ngadju traditional owners of southern Western Australia to manage their lands for economic, cultural and environmental outcomes

← Ngadju Rangers monitor wildlife using a motion detecting camera so they can better understand the population dynamics and threats to native animals.

Supporting Aboriginal land management

The Pew Charitable Trusts is a global public charity driven by the power of knowledge to solve today's most challenging issues. Pew conducts science based research and rigorous analysis to improve public policy globally. Registered as an Australian charity since 2007, Pew has partnered in Australia with local Indigenous, scientific, agricultural and conservation organisations to secure the health of Outback lands and adjacent remote seas for the benefit of people and nature.

Since 2009, Pew's philanthropy has directly supported the wishes of the Ngadju traditional owners of southern Western Australia to manage their lands for economic, cultural and environmental outcomes. "Pew's support has enabled not only the development of employment and delivered conservation benefits, but has supported the Ngadju people to shift from the margins to the centre of decision-making for their traditional lands," Ngadju Conservation co-ordinator Les Schultz said.

In 2014, the Ngadju people were granted Native Title over 10 million hectares of southern Western Australia, including exclusive possession over 4.5 million hectares of unallocated crown land in the Great Western Woodlands, south of Kalgoorlie.

The Great Western Woodlands are the largest remaining temperate woodland on Earth and are an identified area of high conservation value, which includes a global 'hotspot' for botanical diversity.

The Federal Court recognised Ngadju's uninterrupted connection to country and their desire to maintain strong cultural links to Ngadju land into the future. The vast lands now returned to Ngadju ownership under Australian law covers an area that is 11/2 times the size of Tasmania.

Ngadju Conservation was established in 2012 to coordinate conservation land management programs on behalf of the broader Ngadju native title claim group. The Ngadju's innovative objective was to create employment and economic opportunities through the conservation and cultural management of their traditional lands.

Working with Ngadju leaders, Ngadju Conservation and local conservation organisation GondwanaLink, Pew has helped deliver the following outcomes.

- Norseman-based Indigenous people are now able to skill training and full-time employment opportunities to manage Ngadju lands. This is being achieved through the establishment of a ranger program focusing on fire training for wildfire suppression and mitigation, the development of a conservation action plan, and training in surveying and mapping of invasive weeds and mallee fowl.
- Ngadju rangers were able to participate in skill-sharing and knowledge gathering forums and conferences, including the Kimberley Ranger forum in 2012 and 2017, and also the World Indigenous Convention in Darwin in 2012.
- A key part of the support was funding for Ngadju Conservation co-ordinator Les Schultz and other Ngadju leaders to travel to Perth and Canberra to meet with government officials and MPs. This was to advocate for increased and long term support for Indigenous Ranger programs and associated land management. This has included travel for advocacy - to lobby governments and all political parties for better and more targeted support for Indigenous land management for the now vast area of land and sea now returned to full Indigenous ownership and management.

Much of the funding for the Ngadju work has come from Pew funds held in the United States. Under proposals to constrain international philanthropy for advocacy on policies that could be regarded as electorally related, such funding would be banned. In that situation support for Ngadju to directly advocate their cause in the centres of political power would be at risk.

↓ Les Schultz, Chairperson of the Ngadju Conservation Aboriginal Corporation, with Peter Price, Program Manager of the Great Western Woodlands Gondwana Link



Bushfire recovery and emergency relief in Tathra

Anglicare Australia is a network of local, state, national and international agencies that are linked to the Anglican Church. With a workforce of over 18,000 staff and more than 11,000 volunteers, our services are delivered to more than one million Australians.

Anglicare agencies have a joint budget of \$1.48 billion. Just under one third of that budget – around \$429 million – comes from non-government sources. Anglicare Australia Network members use this money to provide homelessness services, social housing, foster care, disability support, aged care, and much more.

The Network's largest service area across Australia is emergency relief. Emergency relief matters because it helps people meet their most basic needs in times of major hardship or crisis. The need for this type of relief is growing every year. With the cost of living and day-to-day expenses like rent and electricity going up, it can take just a small hiccup for people on low-incomes to lose control.

Sometimes, emergency relief is about giving people some extra help through a tough patch. Anglicare Australia Network members do this by providing groceries at mobile pantries, fresh food and produce, or one-off help with paying bills. They also offer long-term solutions to people facing more serious crises, like financial counselling and zero-interest loans.

Many people who find that they can't pay their bills, make the rent, fill a prescription, or put food on the table for their family come to their local Anglicare agency for help. Every year, more than 27,000 people rely on Anglicare Australia Network members for this kind of emergency relief in each state and territory.

If the Government passes new laws that limit advocacy and restrict how charities can fundraise, these emergency relief programs all over Australia are under threat. There are two reasons for this. The first reason is that Anglicare Australia Network members would be forced to register as 'political campaigners' under the laws, because some of their staff are employed to analyse issues like aged care, homelessness, disability, and living costs.

If the Government limits advocacy and restricts how charities fundraise, emergency relief programs will come under threat

➔ Anglicare Australia's network members provide emergency relief and disaster recovery after major events, such as the recent Tathra bushfires

Being a 'political campaigner' means that they will need to comply with a very strict set of reporting and auditing requirements. There are huge penalties for getting it wrong - miscalculating the date that you become a 'political campaigner' could lead to large fines. Most agencies would be forced to hire staff just to manage their compliance. That is money that will not be able to spend on emergency relief and other service areas.

The second reason is that unlike other programs, a lot of emergency relief work is not government-funded. They rely on donation appeals, especially during natural disasters and other emergencies. Under the new laws, agencies will be forced to get paperwork from donors to show that they are Australians. Fundraising online, and traditional ways of fundraising like passing around a donation tin at a church event, will become much harder. This will reduce the amount of money can be raised across the board.

There will not be time to take these steps when dealing with emergencies. For example, Anglicare NSW South, NSW West and ACT is providing emergency relief to many victims of the recent Tathra bushfire. Their staff and volunteers would hate to let these communities down in their time of need.



Ross Sea Region marine protected area (MPA)

WWF (formerly the World Wildlife Fund) is the largest and most influential conservation organisation in the world. It is a charity whose work is based on a unique partnership between scientists, business and government leaders. It has over five million supporters globally and operates in more than 100 countries.

Today, WWF is Australia's largest conservation organisation, with more than 500,000 supporters and projects throughout Australia and the Oceania region. Its work in Antarctica and the Southern Oceans has been key to protecting the conservation values of this pristine environment. In 1991 WWF-Australia and its partners achieved a 50-year moratorium on mining in Antarctica. In 2002, WWF's work led to a 65,000 km Heard Island and McDonald Islands Marine Reserve in the Antarctic region.

The establishment of the Ross Sea Region MPA, following a long-standing effort by WWF, was a turning point for the protection of Antarctica and Southern Ocean. It established:

- 1,117,000 km² of fully protected marine reserve
- a 110,000 km² special research zone (SRZ) allowing for limited research fishing for krill and toothfish, and

- a 322,000 km² krill research zone (KRZ) allowing for controlled research fishing for krill.

Advocacy by a team of WWF groups from countries including Australia, the United Kingdom and the Netherlands, and by other NGOs including the Pew Environmental Trusts, was crucial in securing the MPA. These groups worked with scientists and government leaders from a range of nations as the MPA was considered.

Most of the advocacy occurred in the lead up to the 2016 meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) in Hobart and during the meeting. CCAMLR's conservation mandate is to manage the entire ecosystem, not just a single species. CCAMLR is a consensus forum, so all countries have to agree for a conservation measure to be passed. This is a key example of international conservation challenges crossing borders, and necessitating collaboration between the governments of different countries, scientists and conservation groups. The Ross Sea Region MPA secures a future for the amazing wildlife and marine biodiversity of East Antarctica, including Adelie and emperor penguins.

➔ WWF advocacy is helping protect the futures of the Adelie and emperor penguins

International attention has recently focused on Adelie penguins, which have suffered 2 catastrophic breeding failures in 4 years, making it vital that their home and food source (krill) is protected. Extending protections for the East Antarctic waters is a priority for WWF advocacy - and one backed by the Australian government in CCAMLR negotiations.

International funding was critical in securing the Ross Sea MPA. Advocacy efforts were coordinated from the USA, and major grants from US and European foundations supported project activities in many countries. The funding for our work came directly from other network offices including WWF UK and WWF Netherlands.

The conservation needs of the Southern Oceans cross borders, as do international management efforts. Protecting these unique ecosystems will require collaboration from countries including Argentina, Chile, UK, Germany, Netherlands, Australia, New Zealand, Russia, Norway and potentially China. It will also require cooperation between scientists and conservation groups from many of these countries, made possible by international philanthropy.



CONCLUSION

Most if not all charities seek to change society in some way to improve the circumstances and outcomes for the people, places or issues they represent. Under the proposed package of bills, the legitimate role of charities as advocates for their charitable purpose is fundamentally changed, with charities that seek policy and other reforms through a public process being recast as political entities engaged in the electoral process. This is in part because the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill would define political purpose as:

“the public expression by any means of views on an issue that is, or is likely to be, before electors in an election whether or not a writ has been issued for the election”.

This extends the reach of the electoral laws well beyond party political participation and support into policy development and public advocacy, which is a core charitable purpose. Whether or not a charity becomes subject to the requirements of the electoral laws depends upon their level of “political expenditure”. The proposed new classes of actors (Political Campaigners and Third Party Campaigners) would be required to register with the Electoral Commission and comply with stringent requirements, such as setting up additional bank accounts and appointing a

Financial Controller. Many charities will become subject to these electoral laws simply because they analyse policies on behalf of their cause or community.

These changes would be accompanied by highly punitive measures for organisations found to be in breach. There would also be a new level of onerous red-tape and compliance risk for the persons responsible for financial management of non-profits.

Forcing organisations involved in public advocacy to register as ‘political campaigners’, coupled with the onerous proposed parsing and reporting of what funds are used for ‘political’ activities, will result in the silencing of many organisations currently active and positively contributing to Australian public debate. The irony that this is an initiative of a government which has championed the removal of red tape is obvious. In addition, the severe financial and criminal personal and organisational penalties for non-compliance with these proposed requirements will create a level of risk that will further see organisations refrain from public comment.

Our case studies show that these bills ignore the fact that the majority of affected organisations undertake advocacy as only one component of their activities, and then deliberately conflates partisan political activity with public debate. As a result, the laws would force many organisations to choose between service delivery and having a public voice, denying the essential relationship between the two in improving our society.

The question which should be at the heart of these bills, but which palpably is not, is one of undue influence. The bills would do nothing to ensure greater transparency when it comes to accessing and influencing politicians themselves, whether that is by Australian or international organisations and corporations. Nor would this package do anything to make donations to political parties more transparent or their declaration more timely.

Instead, the proposed bills would weaken debate by silencing the voices of interests that are typically represented by charities in the public arena, and by placing onerous restrictions on civil society groups representing the views of large numbers of Australians. This will result in public debate being further dominated by those who already enjoy access and privilege.

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