



VICTORIAN WOMEN'S TRUST

Committee Secretary
Joint Standing Committee on Electoral Matters
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Senator Reynolds,

The Victorian Women's Trust welcomes the opportunity to provide a submission in relation to the proposed *Electoral Legislation Amendment Bill*. Whilst there are many changes proposed in this *Bill*, we wish to focus on the role that political donations play in weakening our democracy and in maintaining a white Anglo-Celtic masculinist power structure, which limits our collective capacity to represent the needs of our nation and holds Australia back.

Women's equal representation, along with women's economic security and health, are our key focuses as an organisation committed to reducing gender inequalities. We believe that all three areas are inextricably linked, with equal representation within our institutions seen as an essential catalyst for improvement in all aspects of women's lives. We believe that this reality is especially evident when assessing Australia's political landscape.

Currently women's representation in our Federal Parliament is only 32%.ⁱ It is little wonder that women's daily experience of inequality is not seen as a pressing social issue within Australia's largely masculinist political culture. This lack of political diversity is reflected in policy, which often disregards the needs of women and ethnic minorities, and represents an inherent and profound *democratic deficit* in our political system.ⁱⁱ We wish to highlight this reality and pose the question: how can a democracy function fairly if the issues of gender and racial inequality, and their cultural and socio-economic effects, are consistently ignored as policy priorities?

When a democracy is not representative, robust, transparent or vibrant, it is not healthy. Simply, when we exclude the majority of our population from policy, and legislative, deliberation and decision-making, we run a *democratic deficit*.

We see it as evident that Australia's current democratic deficit is supported by its system of political donations: a system through which a powerful few are able to significantly influence policy outcomes. With trust in elected representatives at a critical low, and with 65% of Australians believing that lobbyist wield too much political influence, it is clear that reform is needed.ⁱⁱⁱ Whilst a step in the right direction this *Bill* fails to implement the reforms which can help reduce the deficit, and in the medium to long-term return our democracy to surplus.

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We see these essential reforms as follows:

- introduction of a cap on allowable donations during an election cycle;
- lowering of the donation disclosure threshold;
- real-time reporting of all political donations;
- establishment of a federal, independent anti-corruption committee; and
- an significant increase in public funding for election campaigns.

All Australians – not just some - deserve to be represented in our democracy and to feel that their voices are being heard. Our current system of political donations and the institutional inequality that it supports requires urgent reform if Australia is to view itself as a true representative democracy.

Yours sincerely,

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ⁱ Hunter R, 2013, *How representative is our parliament?*, Rights Now Human Rights. Accessed online, 21st December 2017: <<http://rightnow.org.au/opinion-3/political-representation-in-australia-how-representative-is-our-parliament/>>

ⁱⁱ Tremblay M, 2007, 'Democracy, representation and women: a comparative analysis', in *Democratization*, Taylor & Francis Group, vol.14, no.4, p.1.

ⁱⁱⁱ Centre For Policy Development, 2017, *What Do Australians Want?*, pp.3, 5. Accessed online, the 21st December 2017: <<https://cpd.org.au/2017/12/what-do-australians-want-discussion-paper-december-2017/>>

Protecting Our Democracy:

The changes proposed in this *Bill* are coming at a time when public trust in government is disturbingly weakened: with 74% of Australians believing that people in government only look after themselves and only 26% believing that they can be trusted.ⁱ Worse still, a staggering 56% believe that the government is run only for a few big interests; only 12% thinking it is run for average citizens; and a mere 14% believing that politicians know what average Australians want.ⁱⁱ

Given these figures it is important to ask what the average Australian *actually wants* from their politicians and their democracy, and whether this is in line with the proposed changes.

Australians strongly support significant reform to our democracy and its donation laws. Currently 77% of Australians support the creation of a federal anti-corruption body; 67% support more diversity in our parliaments; and 79% support tougher regulations for parliamentarians.ⁱⁱⁱ These figures are further compounded by evidence that trust in Australian democracy is falling, with only 60% of the voting population believing that democracy is a preferable form of governance; a figure that drops to only 52% amongst individuals aged 18-29.^{iv} That only a small majority of Australians would prefer democracy to autocratic rule indicates that there is something very wrong with the state of our politics.

The research is clear: Australians do not want career politicians fixated only on the short-term appeasement of powerful donors for their personal political gain. They want a government that represents them and tackles long-term political challenges^{1v}. This desire is not readily apparent in our current political system.

When it comes to economic policy the stark difference between what the government is actually delivering and what the general population wants becomes even more pronounced. In Australia, 81% of the population support closing corporate tax loopholes; 66% support raising corporate tax; 70% support raising income tax; 59% support a carbon tax; and most importantly, 75% support increasing the public sector's influence.^{vi}

Many Australians no longer believe that the deregulated market is delivering and a majority overwhelmingly support government intervention and regulation to rectify the oligopolistic practices that businesses have been encouraged to carry out. When however, the largest donors to political parties are wealthy individuals and corporations with vested interests in deregulation, a clear conflict of interest arises when politicians are called upon to implement the necessary reforms that the majority of citizens support. There is a *strong disincentive* for politicians to propose reform that is in direct opposition to their largest donors' interests. This is why the current, failing system has continued for as long as it has and why further reform beyond what is suggested in this *Bill* will be required to rectify the institutional failings of Australia's democracy.

It is time for Australia to take 'full stock' of its progress and achievements, and consider holistically social, cultural, environmental, financial, and human indexes when assessing whether policy is working.^{vii} The malaise that has defined our democracy must be countered with good policy.

¹ 66% think that we should have fewer career politicians and 73% think our government is only fixated on

Electoral Legislation Amendment Bill 2017: The Proposed Changes

Despite much needed reform in multiple states, federal legislation regarding political donations remains murky and weak. Current state and federal laws are notoriously inconsistent and taken together form a patchwork of regulations that are vulnerable to exploitation.^{viii} The central proposals for change in this *Bill* that target such vulnerabilities are as follows:

- The identification of three different types of non-party actors: ‘political campaigners’, ‘third-party campaigners’, and ‘associated entities’;
- The introduction of three, publicly available registries in which political campaigners, third-party campaigners, and associated entities will be required to provide information detailing their names, financial controllers, and affiliations to political parties; and
- The requirement that all political actors verify that donations of value equal to, or greater than, \$250 come from either an Australian citizen or organisation with principle interests in Australia.

Whilst a step towards greater transparency and a reduction in foreign influence, this *Bill* falls short of implementing the reform required to fix Australia’s democratic deficit.

Problems With The Proposed Changes:

The changes proposed in this *Bill* fail to address the central problems and current weaknesses of our political donation laws. For instance, the *Bill* fails to:

- ***Lower the disclosure threshold from \$13,500.***

This means that donors will continue to be able to give donations of \$13,499 to multiple branches of a political party without them needing to be disclosed. This could occur up to nine times if donations were made to each state and territory affiliate of a federal party.^{ix}

- ***Introduce real-time reporting of donations.***

The returns of political organisations and their associated entities will still only become publicly available in the February following the financial year in question. This means that a donor could make subsequent donations of \$13,499 on June 30th and July 1st to the same branch of a party and it will not be disclosed. Furthermore, a wealthy donor could make a significant donation on the 1st of July with the express purpose of political gain and yet the public will not find out for 20 months. Notably, this lengthy time-lapse prevents journalists from keeping the public well informed and ensuring that politicians are held to account thus weakening the important democratic role that the media plays.

- ***Introduce a cap on donations.***

Meaning that a wealthy individual or corporation could donate as much as they want, as many times as they want, during a given financial year. By neglecting to introduce a cap the *Bill* fails to address the influence that a few high-income earners have on political outcomes.

- ***Establish an independent anti-corruption body to deal with regulating donations.***

This is left up to the Electoral Commission which remains toothless with many of the contravention penalties contained in the *Bill* also being downgraded from criminal to civil offences. For example, returns of political expenditure must be submitted to the Electoral Commission 16 weeks after the end of the financial year in question. Failure to do so will now only be met by a civil penalty.² This was previously seen as a criminal offence but has been downgraded by the proposed changes. Furthermore, it remains unclear how the changes will be meaningfully policed and enforced by the Electoral Commission without relying heavily on self-reporting by political actors. Under the proposed changes, the Electoral Commission will seemingly remain an inbox for political parties to lodge disclosures rather than become a regulating body with meaningful legal authority.^x

- ***Crack down forms of lobbying that exist outside of explicit donations.***

This includes practices such as using membership fees to raise funds, private networking, and personal access to influential politicians. Additionally, the proposed changes do not address the issue of the 'revolving door' of politics and the potential conflicts of interest that could arise. Politicians will continue to be able to seek lucrative employment opportunities within lobbies, multinational corporations, unions, foreign entities, and other powerful actors immediately after having worked within the Australian government.

- ***Close all loopholes.***

For example, in section 302M the *Bill* leaves room for those guilty of contravening the new laws to plead ignorance. The section allows for individuals to argue that they did not have 'reasonable grounds' to believe that a donor was not an allowable donor. Furthermore, whilst restricting certain foreign donations the bill fails to regulate donations given by foreign donors for 'private' use. This exception is a notable loophole that leaves the door open for private 'quid pro quo' arrangements. These two loopholes are evidence of the inherent weakness of the proposed changes.

- ***Restrict powerful lobbies and associated entities.***

Business lobby groups will continue to be allowed to campaign in their self-interest without disclosing where their funds have come from. Additionally, the *Bill* leaves room for powerful multinational corporations with foreign interests that have headquarters in Australia to donate and exert significant influence over political parties. The *Bill* also fails to define associated entities as political campaigners meaning that such organisations will

² See 239 (Item 87- Section 314AB) p.52 of Memorandum.

continue to be able to receive foreign donations. This means that powerful unions, think tanks, and fundraising entities, all of whom play a crucial role in shaping Australia's political landscape, will remain vulnerable to foreign investment and influence. This failure to properly regulate leaves room for the dominant, masculine culture of business to continue to self-perpetuate through the prism of donations and political influence.

Weakening Our Democracy

Ironically, rather than address the inherent flaws in our current system, the *Electoral Legislation Amendment Bill* primarily works to weaken the important advocacy work carried out by Australia's charity and not-for-profit sector.

The proposed changes unnecessarily target organisations that often advocate for average and vulnerable Australians, and works to silence the important civic role that they play within our democracy.

Banning foreign donations to non-government organisations that engage in democratic debate is a means of suppressing possible criticism and a feature of autocratic governance than a democracy.^{xi} This is a cruel irony that has the potential to increase Australia's democratic deficit rather than repair it.

By creating two new categories of political actor (political campaigner and third-party campaigner) the *Bill* takes aim at any organisation that accumulates expenditure for 'political purposes', or simply 'publicly express views in relation to any issues that is likely to be an election matter'.³ According to the proposed changes, organisations that spend the equivalent of \$13,500 in a financial year for political purposes will be required to provide a return to the Electoral Commission. If the organisation is also a registered charity or not-for-profit all gifts worth \$250 or more will also need to be proven to have come from an allowable (Australian) donor, and will have to be placed in a separate account that cannot be used for political purposes.

These new regulations create additional red tape for organisations that cannot necessarily afford the costs of extra administrative work and could instead better spend their resources helping strengthen our country. The proposed changes have the potential to place unnecessary pressure on a sector that in the absence of government support has accepted the responsibility to provide many services that have traditionally been publicly funded. The choice between advocating on behalf of Australians and accumulating greater administrative costs is a strong disincentive for charities, non-for-profits, and other grassroots initiatives, to engage within our democracy and continue their important role in balancing public discourse.

The High Court's decision in 2010, along with the *Charities Act 2013* and the *Not-For-Profit Freedom to Advocate Bill 2013*, confirm that charities have a strong legal basis to advocate on issues that align with their goals.^{xii} These proposed changes however, work to silence charities that engage in such advocacy under the guise of increasing political transparency and removing

³ See 37 p.15 of Memorandum.

foreign influence. These efforts to weaken civil society are damaging to Australia's democracy and create a climate in which our fundamental right to speak out on matters of public interest is threatened.^{xiii}

Charities play an integral role in democratic societies, often representing the lived experiences of society's most vulnerable.^{xiv}

Weakening the sector simply further enhances the power and influence of business lobbies and unions, and supports a power structure in which the opinions of a wealthy few are the primary concern when developing policy.^{xv}

Australia's poorly regulated federal system of donations has eaten away at the central democratic principle of serving *all* citizens. Producing effective and fair policy for the majority of Australians has become a secondary interest within our parliaments.^{xvi} Smaller organisations like charities, grassroots organisations, and not-for-profits that represent average Australians simply cannot compete with lobbies funded by high-income elites.^{xvii} These are the privileged few that this *Bill* ought to be targeting. The idea that it is only 'foreign' donors who are capable of skewing policy obfuscates the reality that it is Australians who have the most vested interest in putting money behind their political convictions.

Women's Equal Representation

Under our current political system women have often been placed at a significant disadvantage. The gender pay gap provides one example with the average full time weekly earnings of women currently sitting at 15.3% less than her male counterparts, which jumps to 30% when assessing managerial positions.^{xviii} Australian women also have significantly reduced superannuation funds; continue to bear the brunt of unpaid and unrecognised domestic labour; and still face endemic levels of domestic and sexual violence. These pressing social and economic issues however, are still not seen as policy priorities, especially when considered next to the desires of Australia's male dominated institutions.

The last thirty years in Australia has seen the deification of the economic and political philosophy of the 'free market': an ideology that has been supported and sustained by deregulated political donations. Deregulated lobbying disproportionately benefits businesses and wealthy elites to the exclusion of others. The resulting power structure is reflected in the underrepresentation of women and ethnic minorities in our parliaments and various other institutions. Currently, women's representation in ASX leadership is extremely low with women only comprising of 8.2% of directors; 4.9% of senior executives; 4.2% of CEOs; and 13% of CFOs.^{xix} These numbers drop even further when considering culturally diverse leaders.^{xx} Amongst unions the story is slightly better with 38.5% of secretaries being female, however women are still notably underrepresented.^{xxi}

These statistics, coupled with the fact that more than two thirds (68%) of MPs are men, paint a stark picture of the over-representation of privileged Anglo-Celtic males within Australia's most influential institutions.^{xxii} It is thus no wonder that the needs of women are often invisible or

ignored by the dominant masculine culture of Australia's parliaments and the powerful lobbies that support them. It is equally no surprise that policy often places the needs of wealthy, Anglo-Celtic males at their centre.

The reality is clear: women, ethnic minorities, and average income earners can no longer trust their representatives to do the right thing and implement effective, long-term policy. Short-term gains, appeasing donors, and winning elections at all costs have become synonymous with Australian democracy: representing the populous is no longer the priority. The dangers of lobbying and donations are great, and the threat that charities, not-for-profits and grassroots initiatives pose to democracy is not comparable. Organisations that operate in the name of public interest, often defending the rights of society's most vulnerable, simply do not pose the same risk to our political system as corporations who act to enhance their private financial interests.

Australia's poorly regulated system of donations has meant that the average Australian has been shut out of politics. Significant reform is needed so that our government regulates for the benefit of all Australians rather than develop policies that enhance the institutional power of its largest donors.

What Must Be Done?

Our current democratic system is failing us. The influence that a powerful, un-elected few wield over our politicians has become too great. The malaise and distrust amongst the populous reflects this trend.

This phenomenon is not a mystery: it is the result of, and is maintained by, our ineffective donation laws. Reform is needed and unfortunately this *Bill* fails to implement the changes necessary to return Australia's democracy to health. We are thus left posing the question: what needs to be done?

Rejuvenating Australia's democracy will be a complex process. We do not claim to hold all the answers, however there are obvious reforms that we see as necessary to ensuring that our democracy is more transparent, vibrant, and robust. These reforms are as follows:

- the introduction of a cap on allowable donations during an election cycle;
- the lowering of the donation disclosure threshold;
- real-time reporting of all political donations;
- the establishment of a federal, independent anti-corruption committee; and
- a significant increase in public funding for election campaigns.

Further restricting the charity and not-for-profit sector however, is not conducive to rejuvenating our democracy. Silencing the voices of Australia's most vulnerable and further excluding the average citizen from civil debate only serves to widen the democratic deficit. This *Bill* offers a unique opportunity to fix our current system but falls short of implementing the changes that our democracy needs.

Assuming we want our democracy to be transparent, representative, diverse, and robust, we must take the necessary steps to nurture it to health. A democracy in which the average Australian is shut out, where women and ethnic minorities are underrepresented, and where organisations that advocate for society's most vulnerable are silenced, is an unhealthy democracy. Under current laws, charities are obliged to fully report their incomes and activities. Conversely, business lobbies are able to freely campaign in their self-interest without disclosing their funding.^{xxiii} It is clear that this *Bill* will be ineffective in stemming the influence of the latter but will succeed in applying additional pressure to the former, and will further weaken our democracy in the process.

Reimagining Politics:

Australia's political history has been defined by Anglo-Celtic maleness.^{xxiv} Up until 2008 all past prime ministers and governor-generals had been men, and to this day there has not been a single female opposition leader.^{xxv} Masculinist beliefs, assumptions, and lived experiences continue to define our politics, our policy, our leadership and our identity. In Australia, being a white male is the standard against which everything is measured.

Our political system has been defined by masculinist beliefs and experiences since its inception. The idea that our democracy has been defined by fairness, equality, or the 'fair go' is misplaced. Our democracy has been running at a deficit since it began, and it's time we fixed it. If Australia is to view itself as a truly equal, fair, and representative country it needs to dismantle the institutional inequality that has defined its politics. Reforming our current political donation laws provides an avenue through which we can begin to challenge, for outcomes better by our nation, the masculine hegemony of Australian politics. If women, ethnic minorities, average earners, and young people are to feel represented by the leaders that they have elected, it is imperative that the disproportionate influence a wealthy few are able to wield is stopped.

Money and privilege should not define one's right to speak in a democracy. We must work to reform our system and ensure that a plurality of diverse voices are heard and represented in our parliaments.

Reforming our political donation laws provides a perfect opportunity to begin this change.

Endnotes:

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- ^v Ibid., pp.5-6.
- ^{vi} Ibid., p.10.
- ^{vii} Ibid., p.18.
- ^{viii} Davies A, 2015, 'How political campaign funding actually works: Australia's flawed political donations laws', *The Sydney Morning Herald*, 27th July. Accessed online, the 11th January 2018: <<http://www.smh.com.au/federal-politics/political-news/australias-flawed-political-donations-laws-20150724-gjijll.html>>; Rennie G, 2016, 'Lobbying 101: how interest groups influence politicians and the public to get what they want', *The Conversation*, 9th June. Accessed online, the 21st December 2017: <<https://theconversation.com/lobbying-101-how-interest-groups-influence-politicians-and-the-public-to-get-what-they-want-60569>>
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