



## Who Will Drain The Canberra Swamp?

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'Drain the swamp' was a core message of Donald Trump's 2016 election campaign. This simple message referenced the entrenched special interests feeding from the taxpayer-funded trough in Washington DC. In Canberra, we have our very own swamp, where government departments and taxpayer-funded non-government organisations advocate not only for their own existence, but also for progressive answers to contentious public policy questions.

Worryingly, Australia's public advocacy machine shows no signs of abating and has already scored a number of victories this year, including the announcement in March that the Federal Government would reinstate more than \$50 million in funding for progressive 'community groups'. This arrangement is a perversion of the democratic process. In funding advocacy groups, the government is lobbying itself with our money.

The civil service is supposed to be a neutral instrument of the elected government, but it's increasingly adopting a political character of its own. The government enables this by funding and allowing the bureaucracy to exert political influence, while excluding the people that elected them



in the first place. To their discontent, the excluded voters are discovering their representatives are failing to adopt their mainstream values, preferring the niche positions of the progressive elite. This betrayal alienates voters from the institutions of democratic government, further entrenching the insiders. When government only listens to bureaucracy, it will choose bureaucratic solutions to problems that are typically created by the bureaucracy in the first place.

## **ANTI-DISCRIMINATION ADVOCACY**

The Australian Human Rights Commission (AHRC) is a classic example of a government agency undertaking political advocacy. Aside from its conciliation function, one of the AHRC's primary tasks is to 'promote an understanding and acceptance ... of human rights in Australia', to undertake 'research and education programs', and to 'develop laws, policies and programs' for parliament to introduce.

Political advocacy by the AHRC has always been highly selective. It argued for the introduction of hate speech laws in the Racial Discrimination Act in a 1983 report, and again in a 1991 report. It was a major participant in the inquiry into the *Racial Hatred Act 1995*, which introduced section 18C into the *Racial Discrimination Act 1975*, and has persistently defended the law in public debate since.

Generally, the view of human rights adopted by the AHRC is based on the 'social justice' concept. This justifies greater government intervention in the public or private sphere, while manifesting itself in other areas of public debate, such as asylum seeker policy, expanding the definition of marriage, and increasing the size and scope of the welfare state.

One of the AHRC's recent forays into public debate was during the 2016-17 parliamentary inquiry into freedom of speech in Australia, which reported on the appropriateness of section 18C and the operation of the commission itself. The AHRC had numerous opportunities to explain its conduct before Senate estimates committees, but it used the freedom of speech inquiry to present a 90-page submission, appearing twice at public hearings in Canberra to defend their administration of the law and the content of that same law the commission itself administers.

This is a total perversion of how parliamentary inquiries should work. Inquiries are supposed to invite submissions from the public, introducing direct public input from the community into the legislative process. Allowing the bureaucracy to participate is both improper and undemocratic.

### **IN FUNDING ADVOCACY GROUPS, THE GOVERNMENT IS LOBBYING ITSELF WITH OUR MONEY.**

The freedom of speech inquiry highlighted a broader problem of taxpayer funded advocacy. In addition to the AHRC, 12 other state and federal agencies made submissions, with appearances at public hearings by Equal Opportunity Tasmania, the Victorian Multicultural Commission, Legal Aid NSW, Legal Aid Queensland and the Northern Territory Anti-Discrimination Commission. All of these bodies made relatively predictable arguments in defence of the wording and administration



of the law.

Aside from these government agencies, a litany of government-funded community organisations participated in the inquiry. Of the written submissions, 42 belonged to government-funded groups favouring retention of section 18C.

This network of taxpayer-funded groups inhabits the murkiest corners of Australia's swamp. These publicly funded organisations, researchers and activists draw substantial amounts of money from the government, usually in the form of grants. They then spend it on some form of public service, such as legal aid, and inevitably become advocates. Granting public monies to erstwhile private bodies blurs the line between public and private.

Government funding of the non-profit sector is a significant chunk of the economy. And Australian Bureau of Statistics data has shown a significant increase in recent decades. In 1999-2000, the government contributed 30.2 per cent of total non-profit sector revenue. By 2012-13 it had risen to 38 per cent, or around \$41 billion in public money.

For example, legal aid service provider Caxton Legal Centre (CLC) collected \$3.1 million in total revenue in 2015-16. Of this, \$2.98 million was received from multiple Commonwealth and Queensland government grants. In September 2015, CLC co-convened an event at Parliament House in Queensland to 'consider the benefits of introducing a Human Rights Act' in the state. A later parliamentary inquiry into the issue was announced and the CLC prepared a detailed submission to the committee. How do these activities relate to the provision of legal aid services for which it is so generously funded?

#### THIS NETWORK OF TAXPAYER-FUNDED GROUPS INHABITS THE MURKIEST CORNERS OF AUSTRALIA'S SWAMP.

Australia's progressive advocacy network has evolved to include 'umbrella' organisations, which are publicly funded like many of the member organisations they represent. In the free speech inquiry, no fewer than six government-funded 'umbrella' organisations made written submissions (all in favour of retaining section 18C). One such group was the Australian Council of Human Rights Authorities, offering a collective submission for each of the state anti-discrimination agencies. The Australian Council of Social Services (ACOSS) receives a core grant from the Commonwealth Department of Social Services (just under \$900,000 in 2015-16), but has members from state social service groups and numerous national members including the Federation of Ethnic Communities' Councils of Australia (FECCA), which also receives funding from the Department of Social Services. Meanwhile, FECCA collaborates with the Australian Human Rights Commission and Victorian Government agency VicHealth as part of an Australian Research Council initiative called the Cyber Racism and Community Resilience Research Group, another progressive group active in the section 18C debate.

This snapshot highlights how publicly funded advocacy organisations support each other and amplify a progressive voice in the democratic process. But while anti-discrimination advocacy has



been a prominent recipient of taxpayer funding, other policy areas attract interests seeking progressive outcomes, including environmental and constitutional change advocacy.

## **ENVIRONMENTAL ADVOCACY**

The Environmental Defenders Office (EDO) undertakes litigation to challenge projects that have a purported environmental impact. This often means EDO's challenge approvals for mining and other projects approved by the Commonwealth, such as Adani's long delayed Carmichael Coal Mine and Rail Project in Queensland. EDO's also actively engage in policy and law reform processes to 'improve' the environment, such as through planning and native vegetation laws.

A telling example is a long running EDO campaign lobbying for the inclusion of greenhouse gas in the regulatory framework of matters of national environmental significance in the *Environment Protection and Biodiversity Conservation Act 1999*. This would require projects that have an alleged global warming impact (meeting a greenhouse gas emissions threshold) to be subject to assessment and approval under federal law. This would have a hugely regressive impact on investment and economic growth.

The Commonwealth appropriately cut public funding to the EDO's in 2014. However, state governments have increased funding. Queensland's government quietly announced in April that it would grant \$600,000 to its EDO. This is the same EDO that was involved in litigation against Adani, a project the Queensland government supports.

Similarly, the Coalition government in New South Wales announced in April that it would grant an extra \$6 million over the next two years to Community Legal Centres, including NSW's EDO.

## **CONSTITUTIONAL CHANGE ADVOCACY**

Even more worrying is that publically-funded advocacy is not limited to ordinary legislation. In recent years, the federal and state governments have actively funded campaigns for constitutional change.

Attempts by the federal government to change the Constitution are rightly treated with the most caution because these changes can reshape the institutions of government or increase central government power over economic affairs.

THE CIVIL SERVICE IS SUPPOSED TO BE A NEUTRAL INSTRUMENT OF THE ELECTED GOVERNMENT, BUT IT'S INCREASINGLY ADOPTING A POLITICAL CHARACTER OF ITS OWN.

In April 2008, Kevin Rudd's Labor government convened the '2020 Summit' in Canberra, aiming to 'help shape a long term strategy for the nation's future'. In reality, the 2020 Summit was a stacked assembly of mostly progressive intellectuals and celebrities speaking to themselves. A panel considering the question of the future of Australian governance produced a vote of 98-1 in favour of changing Australia into some form of a republic—a question which was voted down by 55 per



cent of Australian voters only nine years earlier.

In 2013, at the height of the campaign to 'recognise' local governments in the Constitution, the federal government pledged to fund the pro-change campaign with \$10 million, well over its pledge to fund the anti-change campaign, which was to receive only \$500,000. This was self-interest at its most blatant: the federal government sought the power to bypass the states and fund local governments directly—and they tried to pay for it.

In the 2016 budget, the Commonwealth Department of Prime Minister and Cabinet gave \$14.6 million to the government-established Referendum Council and Reconciliation Australia's Recognise campaign. The aim was to change the Constitution to recognise Aboriginal and Torres Strait Islanders. As with the other attempted constitutional changes, this effort to generate top-down momentum for progressive change has largely failed, and the campaign has ground to a halt.

These examples highlight a simple truth: government is a political creature. Government funding of bodies politicises those bodies too. This relationship is overwhelmingly characterised by the values of a progressive bureaucratic elite, with a disregard of, if not outright opposition to, the values of everyday Australians. US Republican Senator Rand Paul noted recently: 'If you want to drain the swamp, you have to take away money from Washington, and send it back to the people.' The same lesson applies to Australia: redistributing money from mainstream Australians to outlier progressive advocacy groups not only creates a 'swamp', but is a perversion of democracy.