

Turnbull government must find a way to rid Australia of foreign donations

Written by Tony Walker, Adjunct Professor, School of Communications, La Trobe University



Attorney-General George Brandis (left) and Special Minister of State Scott Ryan need to work together to reform foreign donations laws. AAP/Dan Peled

Let's start at the beginning on the vexed issue of foreign donations for political parties and candidates in an environment in which globalisation is adding to challenges in combating foreign interference in electoral processes.

Back in 1918, when the Commonwealth Electoral Act was drafted, no distinction was made between donors from Australia or overseas, or (effectively) between donors who were Australian citizens, non-citizens, or organisations.

In the last year of the 1914-18 war not much thought, if any, was given to the possibility that foreign interests would interfere with the Australian electoral process, or would have an interest in doing so.

But now, in an environment in which commercial and political interests leapfrog national boundaries in ways that must have seemed a remote possibility when the 1918 Commonwealth Electoral Act was drafted, it is time to subject the act to a comprehensive revision.

The aim of this exercise should be to exclude foreign donations. Those bans should extend to organisations engaged in the political process as lobby groups for one side or the other.

It would make little sense for bans to be applied to political parties themselves without also extending such bans to unions and business lobbyists.

As much as anything, such a provision would act as a deterrent to those who might seek to utilise foreign funds improperly.

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Government ministers tell you it will be difficult to frame legislation that would stop all foreign funding.

What about grey areas, they ask, such as contributions by companies whose main business is in Australia, but whose headquarters is located elsewhere?

The London-headquartered Rio Tinto is one such example.

These are difficult issues and need to be worked through. There is no simple remedy.

Of course, one option would be to make political campaigns fully publicly-funded, thus obviating the need for private fundraising. But that arrangement potentially discriminates against new entrants who may not qualify for such public funding.

The Australian model in which funding is made available on the basis of past performance has merit. But its weakness is that it advantages the major parties disproportionately.

Then there is the whole murky area of funding for organisations like the conservative Institute of Public Affairs, or groups on the left, like GetUp, which supports progressive causes.

Under present circumstances, organisations like the IPA are not obliged to disclose their sources of funding. Since they are involved in the political process, these lobby groups should be required to open their books.

In the United States, funding for similar organisations is transparent, for the very good reason that just as sunlight is the best disinfectant so is transparency in ascertaining what might motivate groups to adopt certain positions.

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The IPA, for example, opposed plain packaging for tobacco products on what it insisted were libertarian grounds. It would have been useful, however, to be apprised of whether the tobacco industry contributes funds to that organisation.

Lobby groups should be obliged to place sources of funding on the public register, especially since many of these organisations derive tax benefits from their status as not-for-profit organisations.

The whole question of “money talks” politics has come into focus in the past week or so with revelations in a Fairfax Media/ABC investigation of money being splashed around political parties by Chinese-born billionaires, one of whom is not an Australian citizen.

Clearly, the aim of these contributions has been to influence Australian politicians in a way that would make them more sympathetic to China’s aspirations.

Indeed, in one case, funding that had been promised to Labor was withheld after one of its spokesmen advanced a point of view contrary to China’s interests.

This was a clear example of money being used – or the threat of funds being withheld – for political purposes. It should be regarded as distasteful, and, potentially intimidatory.

If there is a rule of thumb in politics, it is that money does not bring purity, rather the reverse.

Special Minister of State Scott Ryan, who has responsibility for an overhaul of the Commonwealth Electoral Act as it relates to political donations, acknowledges that grey areas exist that will be difficult to legislate.

In framing the required legislation, Ryan might refer to the [Political Finance Database of the International Institute for Democracy and Electoral Assistance](#), an intergovernmental organisation that supports sustainable democracy worldwide.

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The IDEA has a formula that would be helpful in establishing exactly what constitutes a “foreign interest”.

It defines such interests as entities that:

contribute directly or indirectly [and who are] governments, corporations, organisations or individuals who are not citizens; that do not reside in the country or have a large share of foreign ownership.

In the case of the latter provision, framing regulations to stop foreign donations would present challenges. Rio Tinto is just one example of companies with large stakes in Australia, but domiciled overseas.

Perhaps the most compelling argument for an Australian ban on political donations is that, apart from New Zealand, Australia is the only English-speaking democracy to permit such donations.

In New Zealand, overseas donations are capped at \$NZ1,500.

In Australia no such cap applies.

However, donations to parties and candidates above \$13,200 require the name and address of donor to be supplied. This information must be made available at the end of each financial year.

One reform Ryan might consider is to oblige disclosure more quickly. In last year’s federal election, Prime Minister Malcolm Turnbull made a very significant personal financial contribution to the Liberal Party campaign. But under law, this donation did not need to be disclosed in a timely manner.

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Turnbull did [reveal his contribution](#) – after the election and only under media pressure.

In the case of that contribution it could be argued that wealth in Turnbull's case enabled him to fund a campaign that gave him an advantage over his opponents.

On the other hand, the conservative side of politics would say that Labor has an inbuilt funding advantage because it can rely on the support of the union movement.

In recent years, several attempts have been made to clean up what is clearly an [unsatisfactory state of affairs](#).

In 2010, the Labor government introduced the Commonwealth Electoral Amendment (Political Donations and Other Measures Bill) that would have banned donations of "foreign property".

The bill passed the House of Representatives, but was not proceeded with in the Senate and lapsed at the end of the 43rd parliament.

Labor and the Coalition toyed with the introduction of a donation and disclosure reform bill in 2013, but nothing came of these efforts.

In this latest 45th parliament the Greens have restored their own [Commonwealth Electoral Amendment Bill](#) that bans donations of foreign property. This version lapsed at the dissolution of the 44th Parliament.

Now is the time for this whole issue to be re-visited.

Ryan, in conjunction with Attorney-General George Brandis, needs to come up with a bill that

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seeks to forestall the possibility of candidates and parties being bought and sold in a monied environment that is infinitely more susceptible to influence peddling by foreign interests than it was a century ago.

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