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PARLIAMENTARY INQUIRY INTO SECRECY PROVISIONS AMENDMENT (REPEALING OFFENCES) BILL 2026

SUBMISSIONS FROM THE AUSTRALIAN MUSLIM ADVOCACY NETWORK LTD

1. INTRODUCTION

The Australian Muslim Advocacy Network Ltd (AMAN) works to prevent the harms of systemic racism, online hatred and Islamophobia through policy engagement and law reform.

2. RECOMMENDATION

2.1 AMAN recommends that further consideration be given to introducing clearer and more robust protections for disclosures made in the public interest, particularly where such disclosures relate to serious international crimes, including war crimes, genocide, and crimes against humanity. This public interest exception should apply to the disclosure of evidence that can reasonably be considered by a court to be

(a) A breach of obligations of the state of Australia under international humanitarian law, including third state obligations as articulated by the International Court of Justice.

(b) A breach of individual liability (either direct or accessorial liability) of political leaders and corporations under the Rome Statute, which has been ratified by Division 268 of the Criminal Code.

3. DISCUSSION

3.1 AMAN acknowledges that the Bill seeks to better align Commonwealth secrecy offences with Australia's human rights obligations, including the protection of liberty, privacy, and freedom of expression. We also recognise the Bill's intent to reduce the risk of undue interference with public interest journalism.

However, AMAN submits that additional safeguards are required to ensure that the amended framework adequately promotes transparency, freedom of information, and public accountability—particularly in relation to matters of significant public interest.

3.2 AMAN supports the proposed amendment to section 122.4A of the Criminal Code Act 1995, which applies to non-Commonwealth officers, including journalists and whistleblowers. In particular, we note the shift away from reliance on whether information is formally “security classified” toward a harm-based threshold, whereby liability depends on whether the disclosure causes, or is likely to cause, serious harm to Australia's security or defence.

3.3 AMAN notes that the Bill retains criminal offences relating to the unauthorised disclosure of information where such disclosure would cause serious harm to national security or defence. As a result, individuals—including whistleblowers—who disclose information concerning national security, defence operations, or military conduct outside authorised channels may continue to face criminal liability.

3.4 We further note that existing statutory protections, including those under the Public Interest Disclosure Act 2013, provide limited coverage in the national security context and do not generally extend to public disclosures. This creates a continued risk for individuals seeking to expose serious wrongdoing in these domains.

3.5 AMAN observes that the concept of “security” remains defined by reference to the Australian Security Intelligence Organisation Act 1979, which encompasses matters such as

espionage, sabotage, politically motivated violence, and threats to Australia's defence system. While this definition is well established, it is broad in scope.

3.6 In AMAN's view, the breadth of this definition, when combined with criminal offences for harmful disclosures, may continue to create uncertainty for journalists and whistleblowers as to the legal risks associated with reporting on matters of public interest. This may have a chilling effect, notwithstanding the introduction of harm-based thresholds.

3.7 AMAN recommends that further consideration be given to introducing clearer and more robust protections for disclosures made in the public interest, particularly where such disclosures relate to serious international crimes, including war crimes, genocide, and crimes against humanity.

3.8 In light of past inquiries, including the Brereton Report, AMAN submits that the legal framework should better protect individuals who disclose credible evidence of such wrongdoing, even where that information intersects with national security or defence matters.

3.9 Protecting whistleblowers is essential. According to the Human Rights Law Centre, "Whistleblowers make Australia a better place, ensuring accountability and justice by exposing government wrongdoing and corporate misdeeds. They are vital to our democracy."¹

3.10 However, whistleblowers drawing attention to cover up of war crimes or complicity in war crimes are not fully protected, for example, the imprisonment of David McBride², it is thus essential that this Bill does more to prevent journalists and other whistleblowers from being prosecuted.

¹David McBride sentenced to almost six years' prison for helping to expose wrongdoing, *Human Rights Law Centre*, 14 May 2024 <https://www.hrlc.org.au/updates/mcbride-sentenced/>.

² Ibid.