



THE CANADIAN  
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Via email: [secd@sen.parl.gc.ca](mailto:secd@sen.parl.gc.ca)

Tony Dean, M.P.  
Chair, Standing Senate Committee on National Security, Defence and Veterans Affairs  
The Senate of Canada  
Ottawa, ON K1A 0A4

Dear Tony Dean:

**Re: Bill C-70 - *Countering Foreign Interference Act***

I am writing on behalf of the Criminal Justice Section, (CBA Section) to comment on Bill C-70, *Countering Foreign Interference Act*. The tight deadlines before the Parliamentary Committees have only allowed time for a brief comment on the criminal offences component of the Bill at this time.

The CBA is a national association of over 40,000 lawyers, law students, notaries and academics, and our mandate includes seeking improvement in the law and the administration of justice. The Criminal Justice Section consists of a balance of Crown and defence counsel from every part of the country.

**Criminal law offences**

The CBA Section is concerned with the potentially overbroad and vague nature of the new criminal offences created in Bill C-70. We believe there is nothing inherently criminal about a foreign entity defined in s. 2 of the Bill. Sections 20, 20.1, 20.2, and 20.3 either create or amend offences done "at the direction of, for the benefit of or in association with" a foreign entity (s. 20.4 does not contain the "for the benefit of language"). This language is only found in the *Criminal Code* about terrorist and criminal organizations, both of which are by their very definition, criminal entities with which no one should knowingly be involved. The use of that language in those settings is hence a very clear and deliberate warning of what constitutes a crime. In contrast, there is nothing inherently criminal about a foreign entity. Foreign entities can be states, opposition parties, or other groups that meet the definition under the Bill. Therefore, to apply the phrase "at the direction of, for the benefit of or in association with", traditionally used for clear criminal entities, to entities that are not inherently criminal gives rise to a concern that the Bill has an overly broad ambit of the law. We have a further concern about vagueness since determining whether a group constitutes a foreign entity is a retroactive exercise based on a definition that covers many completely lawful entities.

This is particularly worrisome given the potential life sentences that attach to these offences and the statutory bar against multiple sentences running concurrently.

The CBA Section is also concerned about s. 52.1(2)(i) which deals with the sabotage offence. This section vests the executive with the power to prescribe, through regulation, what constitutes "essential infrastructure" for the purposes of the offence. This leaves a key element of the offence to regulation and thus subject to the whims of the government of the day. More particularly, some political parties have been critical of, for example, foreign environmental group involvement in resource development.

Thank you for the opportunity to comment on Bill C-70.

Yours truly,

*(original letter signed by Véronique Morissette for Kyla Lee)*

Kyla Lee  
Chair, CBA Criminal Justice Section