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**TITLE: Silencing the critics**

**AUTHOR: Clive Hamilton and Sarah Maddison**

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Canberra's attacks on NGOs that don't agree with it paint a bleak picture of the state of public debate in Australia, write Sarah Maddison and Clive Hamilton.

A DECADE is a long time to be in government. Any government in power for so long will leave an indelible mark on the society it governs, changing the culture, identity, values and direction of the nation. For those in the community who disagree with government policy, there is some comfort in the knowledge that at the very least they can express their dissenting opinions through the recognised institutions of democracy. This capacity for public debate and dissent ensures that governments must continue to publicly justify their decisions — a hallmark of democracy.

But what happens when these democratic institutions are themselves eroded by government? What are the costs when a government tries to ensure that its values are the only values heard in public debate? What are the consequences for a nation whose citizenry is denied essential information about controversial policies?

The Howard Government has been progressively dismantling the democratic processes that create the capacity for public debate and accommodate dissenting opinion. The tactics used to silence critics are diverse, including the withdrawal of government funding, threats to destroy the financial viability of dissenting organisations, appointment of party functionaries or friends to key positions, strict interpretation of laws governing release of information, and the targeting of individuals. One sector that has been a particular target of these efforts to silence dissent is the non-government sector.

In Australia, recent years have seen an unprecedented attack upon non-government organisations, most particularly upon those organisations that disagree with the current Federal Government's views and values. The attacks have come from the Government itself and from close allies such as the Institute of Public Affairs. Questions have been raised about NGOs' representativeness, their accountability, their financing, their charitable status and their standing as policy advocates in a liberal democracy such as Australia.

The most public and visible attack on NGOs has been led by the IPA, a right-wing Melbourne think tank, which first came to prominence in the 1980s when, backed mainly by the mining industry, it was instrumental in developing and promoting the policies of economic rationalism. In the world view of the IPA, NGOs are seen as selfish and self-serving interest groups with little representative legitimacy. The vast store of knowledge of disadvantage and marginalisation held by NGOs such as the Red Cross, the Brotherhood of St Laurence, Oxfam and the Australian Conservation Foundation is dismissed.

Instead, they are seen as a group of professional stirrers who are not really interested in the welfare of those they claim to represent, but who want only to feather their own nests, keeping their salaries and building power bases.

The IPA has been particularly critical of the legitimacy of NGOs in the policy-making process and has urged the Federal Government to withdraw financial support from NGOs that engage in advocacy. It argues that NGOs often invent social and environmental problems and undermine the legitimacy of elected representatives in democratic states. Relying primarily on inflammatory rhetoric, the IPA has persisted with the argument that NGOs undermine the sovereignty of constitutional democracies, using pejorative descriptions of the NGO sector, such as "the compassion industry", a "dictatorship of the articulate" and a "tyranny of the minorities", in its efforts to discredit the advocacy work of these groups.

There is an uncomfortable match between the IPA's campaign against NGOs and the known views of Prime Minister John Howard and several of his parliamentary colleagues. Prior to Howard's election in 1996, he outlined his view that there is a "frustrated mainstream in Australia today which sees government decisions increasingly driven by the noisy, self-interested clamour of powerful vested interests with scant regard for the national interest". More recently, in an address to the Menzies Research Centre, he repeated his pledge not to govern "for the boutique interests of the few while ignoring the everyday concerns of the many", vowing that "the politically articulate would not dominate at the expense of the unorganised mainstream of Australian society". It seems that both representing a minority and doing so in an organised manner are sins in the Prime Minister's eyes.

But the Prime Minister's public views do not always match his Government's more covert behaviour. Other highly organised groups that are active in policy debates, notably business interests, escape the tests of "mainstream representativeness" demanded of NGOs, despite the fact that they are clearly self-interested.

We now know from doctoral research by Guy Pearse that for a decade the Howard Government's climate change policies have been not so much influenced but actually written by a tiny cabal of powerful fossil-fuel lobbyists, self-described as the "greenhouse mafia", representing the very corporations whose commercial interests would be affected by any move to reduce Australia's burgeoning greenhouse gas emissions.

This group consists of the executive directors of a handful of industry associations in the coal, oil, cement, aluminium, mining and electricity industries. Almost all of these industry lobbyists have been plucked from the senior ranks of the Australian public service, where they wrote briefs and cabinet submissions and advised ministers on energy policy.

While cabinet deliberations, ministerial committees and preparation of cabinet submissions are meant to be confidential and beyond the reach of lobbyists — indeed, the unauthorised disclosure of cabinet-in-confidence materials is a crime — the greenhouse mafia has unrivalled access to internal government processes. Members of the greenhouse mafia even admit to being called in to government departments to vet and help write cabinet submissions and ministerial briefings.

As the existence of this lobby group demonstrates, the problem with NGOs is not influence per se, it is about who has influence and the sorts of values that inform their advocacy work.

It is not NGOs as such that have been targeted but those NGOs that are seen to have an agenda that differs from that of the Government. There is a clear agenda to restrict NGOs concerned with social justice, human rights or environmental protection. However, certain NGOs have been spared criticism and threats, and indeed have been actively cultivated through increased public funding and the promotion of individuals to various government boards and bodies.

While the World Wide Fund for Nature Australia appears to have had a close relationship with the Howard Government since the 1996 election, the events surrounding the enactment of the Environment Protection and Biodiversity Conservation Act 1999 were a turning point in this relationship. This act brought wide-ranging and controversial changes to Commonwealth environmental laws. There was sharp disagreement among the larger environment groups about the merits of these legislative changes and debate about whether they should publicly support the bill. The endorsements of the act provided by WWF Australia — joined by three other smaller groups — contrasted with the often scathing criticisms made by opponents of the legislation, including the Australian Conservation Foundation, the Wilderness Society and Greenpeace.

After the legislation was enacted, people associated with WWF Australia and the other supportive groups were appointed to serve on Federal Government environmental advisory committees. WWF Australia was also awarded a contract to disseminate information about the act among environment NGOs.

A report in 2004 concluded that WWF has enjoyed extensive financial support from the Howard Government, with a fivefold funding boost since 1996. Funding to other environment groups, notably ACF and the Wilderness Society, both of which were critical of the bill, has been slashed.

A similar strategy of divide and rule has been applied in the welfare sector. Organisations that have been critical of the Howard Government, such as the Australian Council of

Social Service and the Brotherhood of St Laurence, have been frozen out of debates and positions of influence. Others that have been friendly to the Government have been favoured with funding, contracts and appointments of senior staff to various boards and inquiries.

Two of the most favoured organisations have been the Salvation Army and Mission Australia. The rise in influence of the former CEO of Mission Australia, Patrick McClure, who played a prominent role in debates concerning the introduction of the GST that was in some respects counter to the position of other major welfare groups, is a case in point. McClure was subsequently appointed to head the Government's review of the welfare system, which produced a report that became the blueprint for the Howard Government's controversial approach to welfare reform, and is now a member of the Government's Community Business Partnership.

How do NGOs perceive this new and more hostile political environment? In 2004 the Australia Institute conducted a survey of Australian NGOs that include some advocacy in their role. Among other things, the survey explored their perceptions of Government attitudes to debate, and whether they believed that dissenting views were welcomed or discouraged. The web-based survey was sent to approximately 750 organisations that have some advocacy role. In total, there were 290 responses, including most of the largest and best-known NGOs.

The respondents expressed strong views about the way in which governments, particularly the Howard Government, subdued their often-critical voices. They reported tactics including bullying, harassment, intimidation, public denigration and the threatened withdrawal of funding. Sometimes these threats came directly from ministers or ministers' offices.

Many commented on implicit pressure to censor themselves. In the words of three: "While not openly stated, it has been unequivocally conveyed that 'we do not fund organisations to criticise us'. The perception is that you toe the line or you risk getting defunded."

Some make a conscious decision to avoid being compromised. As one wrote: "We don't take government funding, so we can criticise them." And another: "To have no government funding is liberating." Ninety per cent of respondents believed that dissenting organisations risked having their funding cut. In the words of one: "Peak bodies have had to tread very carefully in terms of retaining funding agreements during the Howard Government."

Just under three-quarters (74 per cent) believed that NGOs were being pressured to make their public statements conform with Government policy. Respondents identified several methods used by government to silence critics. As one stated: "It's done very cleverly — by selectively destroying organisations, defunding, public criticism, ministerial interference, excessive auditing and 'review'."

Since 2003 the Government has escalated its attacks on the NGO sector through a range of strategies designed to restrict the advocacy capacity of the sector as a whole. That year, the Government commissioned the Institute of Public Affairs to carry out an audit of how NGOs relate to government departments. In the resulting report, titled *The Protocol: Managing Relations with NGOs*, the IPA expressed its concern that NGOs were provided with privileged access that distorted the functioning of democracy, arguing that: "In many of their relationships with departments, NGOs are granted privileges that are not available to members of the public. These privileges are primarily through the receipt of funding and the gaining of access."

The report recommended a "protocol" for increasing scrutiny of the relationships between NGOs and government, using the language of transparency and accountability, as if, when left to their own devices, these organisations are bound to misbehave.

The strategy is disingenuous: rather than focusing on what NGOs have to say to government, which may often be critical, the IPA focuses on who is speaking and how they are communicating, effectively shooting the messenger to avoid hearing the message.

IN A parallel strategy, also in 2003, Treasurer Peter Costello undertook to introduce a Charities Definition Bill that would disqualify charities that engaged in advocacy work, other than that which is ancillary and incidental to their main purpose. The threat was that, under the new definition provided in the bill, lobbying or advocacy could result in the loss of an organisation's charitable tax status or status as a deductible gift recipient. As many foundations can only donate to organisations that have deductible gift recipient status (which makes the tax deductibility of donations possible), this could result in the indirect defunding of many such organisations.

Although the Government subsequently announced that it would abandon most of the draft bill and would retain the common law definition of charity, many NGOs remain concerned that there will be a crackdown on their charitable status should they continue to engage in advocacy work.

These fears were strengthened by a draft tax ruling released in May 2005 in which the Australian Taxation Office stated that "political and lobbying purposes are not charitable. While such purposes may use educational means, this is not sufficient to show a charitable purpose", although the ATO did allow that "political or lobbying activities that are merely incidental to a purpose that is otherwise charitable do not by themselves prevent that purpose being charitable".

The continued attacks on the advocacy work of NGOs, along with the survey responses described above, paint a bleak picture of the state of public debate in Australia, suggesting a high degree of coercion on the part of Australian governments.

Many NGOs are reluctant, if not afraid, to speak out.

While state governments are also guilty at times of pressuring NGOs to conform, the Howard Government's willingness to smother dissent poses a disproportionate threat to the democratic process in Australia.

The outcome for the broader Australian polity is that the knowledge and breadth of experience collected together in the NGO community is having much less influence on how we develop as a society than it should.

Like individual citizens, community groups are being worn down and are increasingly reluctant to engage in the democratic process because they no longer believe that they can make a difference. At the same time, certain influential business lobbies have been brought into the fold, along with a few tame or uncritical NGOs such as Mission Australia, the Salvation Army and WWF.

There are grounds for serious concern that the longer this continues the more difficult it will be to reshape and rebuild the structures of democratic participation.

This is an edited extract from *Silencing Dissent: How the Australian government is controlling public opinion and stifling debate*, edited by Clive Hamilton and Sarah Maddison. Published next week by Allen & Unwin, rrp \$24.95