



Preventing Australia being a haven for those involved in human rights abuses and grand corruption

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I am the gate; whoever enters through me will be saved. They will come in and go out and find pasture. The thief comes only to steal and kill and destroy; I have come that they may have life and have it to the full.

John 10:9-10

When money that is supposed to build hospitals, to buy medical equipment is used to buy real estate in Cairns or Brisbane, people die. And, quite frankly, those who turn a blind eye to this are as guilty as the offenders.

Sam Koim, the former head of Papua New Guinea's anti-corruption body *Taskforce Sweep*

Throughout the Bible, there are calls for people to act with integrity and to treat the socially less powerful justly. Australia has at times provided a haven for the assets of political leaders and business people in developing countries involved in gross human rights abuses or grand corruption.

Too many lawyers, accountants, and real estate agents in Australia are willing to look the other way when they are involved with shifting funds stolen from developing countries into Australia. Currently, these professionals and businesses have no obligation to report suspicious transactions to the police, unlike banks. Some of these professionals actively assist in setting up arrangements that can facilitate criminal activity and conceal the real controllers of assets. In October 2020, *The Age* reported an Australian lawyer who advised an undercover investigator to use a Seychelles' private foundation. The lawyer believed the undercover investigator was a potential client. The lawyer told the investigator that by use of a Seychelles' private foundation:

In the event of a lawsuit or tax investigation or regulatory inquiry, your client can swear under oath, 'I am not the legal or beneficial owner of this company', which could be the difference between being charged with, jailed, for tax evasion and walking away a free man.

In December 2020, the Commonwealth Parliament Joint Standing Committee on Foreign Affairs, Defence and Trade released a report on their inquiry into reforms to allow people involved in severe human rights abuses and grand corruption overseas to be placed on a sanctions list in Australia. The Committee recommended that the Commonwealth Government enact stand-alone targeted legislation to impose sanctions on people who have committed serious human rights abuses or serious corruption overseas. People who stifle media freedom should also be placed on the sanctions list. The law should allow direct beneficiaries of human rights abusers to be added to the sanctions list, including any relatives benefitting from proceeds of crime.

However, while the Parliamentary Committee's recommendations are welcome, by themselves, they will not be effective in preventing the assets of human rights abusers and people engaged in corruption from being able to easily enter Australia. Australia has an existing sanctions list. The problem is that many Australian businesses and professionals do not check if the people they are dealing with are on the sanctions list. Further, it is too easy for a person overseas to set up a shell company or trust through a relative or associate where the actual owner of the assets is concealed.

Recent examples of funds related to corruption shifted into Australia

In 2015 the Bruno Manser Fonds issued a report alleging that the Taib family from Malaysia had been able to launder millions of dollars into Australia through the purchase of the Hilton Hotel in Adelaide. Abdul Taib Mahmud was Chief Minister of the Malaysian province of Sarawak from March 1981 to February 2014. Abdul Taib Mahmud had been the subject of significant allegations of corruption and human rights abuses.

In September 2016, it was revealed the son of General James Hoth Mai Nguoth bought a property in Melbourne worth \$1.5 million. General Hoth Mai Nguoth had served as the Sudan People's Liberation Army's (SPLA) chief of staff from May 2009 until being dismissed in April 2014. General Hoth Mai's son was 22 and unemployed when he purchased the \$1.5 million property in Narre Warren. General Hoth Mai's salary was never more than about \$70,000 per year, making it hard to

explain the source of the funds used to purchase the property. The Australian Federal Police have seized the property and several European cars on suspicion the funds used to buy them were stolen.

Yeo Jiawei used a Seychelles-based company for a series of purchases in Australia. He was convicted in Singapore of money laundering and obstructing justice as part of the Malaysian 1MDB scandal (see below for details on the 1MDB scandal). In 2017, Yeo's court case in Singapore uncovered substantial purchases of property in Australia worth \$6 million.

Size of the problem globally

The World Bank and UN Office on Drugs and Crime (UNODC) believe that \$30 to \$60 billion a year is stolen from developing country governments. The amount excludes money stolen through tax evasion by multinational companies. As of 2018, assets frozen, seized or returned to developing countries only amounted to \$12 billion since 1990.

US Government sets an example

The US Government has been setting an example to other governments on the recovery of stolen assets shifted into the US. In 2010, then US Attorney-General Eric Holder announced creating a new Kleptocracy Asset Recovery Unit at the Department of Justice. In May 2019, the Unit returned \$84 million to Malaysia from funds stolen from the 1 Malaysia Development Berhad (1MDB) fund. The 1MDB fund was a state investment fund wholly owned by the Government of Malaysia. More than \$6.6 billion was allegedly stolen from the 1MDB by Malaysia's then Prime Minister Najib Razak and his associates. The new Malaysian Government commenced efforts to recover the stolen funds in 2018. The Australian Government should be matching the efforts made by the US government in recovering and returning stolen assets as a result of human rights abuses or corruption.

What you can do

Write polite and respectful letters to:

The Hon Scott Morrison MP

Prime Minister
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Senator the Hon Marise Payne

Minister for Foreign Affairs
PO Box 6100
Senate
Parliament House
Canberra ACT 2600

Salutation: Dear Prime Minister

Salutation: Dear Minister

Points to make in your letter:

- Express concern that Australia continues to be a haven for the assets of those that have committed severe human rights abuses or grand corruption overseas.
- Note that successive Australian Governments have made only modest efforts to date to address the problem, and lag behind the actions of countries like the US.
- Ask that the Commonwealth Government implement the recommendations of the Joint Standing Committee on Foreign Affairs, Defence and Trade to establish stand-alone legislation to sanction people involved in serious human rights abuse or serious corruption overseas.
- Point out that to make the new sanctions regime effective, other reforms are also needed so that assets associated with people on the sanctions list are detected and reported.
- Ask the Australian Government to tighten up Australia's anti-money laundering laws to require real estate agents, lawyers, accountants and businesses involved in establishing companies to have to report to AUSTRAC suspicious transactions.
- The Australian Government should expand the existing Criminal Assets Confiscation Taskforce to include a section that focuses specifically on tracing and returning assets stolen from developing countries. Note that such a unit already exists in the US.
- Ask the Australian Government to amend Australia's unexplained wealth legislation based on the recommendations made by the World Bank and the UN Office on Drugs and Crime about such legislation. The laws need to be effective at returning assets and funds stolen from developing countries and shifted to Australia.
- Ask that the Australian Government introduce laws to provide for a public beneficial ownership register of companies and trusts, so the real owners of companies and trusts will be known.