

Study on C-70 An Act respecting countering foreign interference

**Submission to the Senate Standing
Committee on National Security,
Defence and Veterans Affairs**

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The Canadian Association of University Teachers (CAUT) represents 72,000 academic staff at universities and colleges across Canada. Bill C-70, the Countering Foreign Interference Act, is important for our organization because we believe that the values that underpin a free and democratic society are necessary conditions for the critical teaching and research that are the *raison d'être* of post-secondary institutions.

C-70 is a complex piece of legislation, reforming six existing laws and introducing a Foreign Influence Transparency and Accountability Act. CAUT joins with others in decrying the rushed process for this bill which has the potential to significantly affect the civil liberties of Canadians.¹

We share concerns with human rights and civil liberty organizations about the expansion of information-sharing and data mining powers, the lack of independence of the Foreign Interference Commission, and implications of the proposed changes on proportionality of sentencing, due process, and the open court principle, *inter alia*. These sections of the bill, like many others, require significant study and debate.

Our submission focuses specifically on Part 1 of C-70, information-sharing changes to the CSIS Act, and Part 4: the Foreign Influence Transparency and Accountability (FITA) registry. As drafted currently, these changes risk being overbroad, violating basic rights, and harming the democratic processes C-70 purports to protect.

Part 1 Authorized disclosure — building resiliency against threats

Information-sharing with non-federal entities, without commensurate oversight mechanisms or measures to know which information was shared and with whom, raises significant concerns about due process, procedural fairness, and privacy. It is also unclear what the benefits of expanded information-sharing powers will be as a Threat Reduction Measure (TRM).

The National Security and Intelligence Review Agency (NSIRA) noted in its 2021 Annual Report:

“CSIS’s documentation of the information disclosed to external parties as part of TRMs was inconsistent and, at times, lacked clarity and specificity. NSIRA also found that CSIS did not systematically identify or document the authorities or abilities of external parties to take action, or the plausible adverse impacts of the TRM. NSIRA also found that CSIS did not always document the outcomes of a specific TRM, or the actions taken by external parties to reduce a threat.”

We are already seeing far more collaboration with intelligence agencies in the academic context in response to the guidelines for research security, the Policy on Sensitive Technology Research and Affiliations of Concern (STRAC), and the creation of research security offices on campuses. It is unclear what specific intelligence would need to be shared to improve the identification of specific threats facing researchers and students in Canada that is not already being shared in current efforts to build resiliency. Instead, it could worsen profiling on campus, and further chill international and democratic engagement.

As noted by Craig Forcese and Kent Roach in a submission to the House of Commons Committee on Access to Information, Privacy and Ethics in 2016, “CSIS information sharing is not governed by a clear law with reasonable safeguards.”

They make a series of recommendations which are relevant with the proposal for enhanced information-sharing, including the following:

- Require shared information be necessary and proportionate and not simply relevant.
- Protocols are in place to ensure the reliability of shared information.
- Match information-sharing powers with oversight by independent review body(s).

¹ <https://iclmg.ca/joint-statement-c-70/>

NSIRA made 5 recommendations elaborating on the above in its 2021 Annual Report. These must be heeded if information sharing with third parties is expanded.

Part 4 Foreign Influence Transparency and Accountability Act

Our members are teachers, researchers, and librarians at colleges and universities who work with colleagues and students from around the world, bringing enormous benefits to Canada. International exchange of research and science contribute to our collective knowledge.

FITA, as drafted, threatens to exaggerate the extent of actual threats while leading to limitations on the global exchange of scientific research and the academic freedom of researchers to interact with international colleagues.

The lack of clarity of “in association with” and “communicating or disseminating by any means, including social media, information that is related to the political or governmental process” is particularly problematic. It could create a chilling effect on international and democratic engagement, while rendering the registry ineffective with an overly wide net. Academic staff and students with international funding, colleagues or contacts may avoid advocacy and limit their engagement to avoid the stigma and burden of registering.

There are existing transparency measures in academia as research ethics principles and practices call for disclosure of financial contributions and conflicts of interest. Research security guidelines and the Policy on Sensitive Technology Research and Affiliations of Concern have already been developed to address the risk of malign foreign influence. Efforts must be made to avoid introducing duplicative and bureaucratic requirements, which would divert resources from focusing on genuine threats.

We urge parliamentarians to consider an academic exemption, as exists under the American Foreign Agent registry, for persons “solely” engaged in bona fide religious, scholastic, academic, or scientific pursuits or the fine arts.

Without exemptions, and more focused definitions of “in association with” and registrable activities, expressive rights in Canada, including academic freedom, and civil liberties of Canadians, will be harmed.