



UNIVERSITY of
TASMANIA

**College of Arts, Law
and Education**

To Whom It May Concern:

Workplaces (Protection from Protesters) Amendment Bill 2019

I attach my submission relating to the proposed bill to amend the Workplaces (Protection from Protesters) Act 2014.

I am a *Senior Lecturer in Public Law* and the *Director of Clinical Legal Practice* at the Faculty of Law, University of Tasmania. I am also the state convenor of the *Australian Association of Constitutional Law*. However, the opinions and views here are my own.

In summary, the bill correctly removes its focus on protesters, but otherwise remains problematic in its scope, balance and approach. It would have been preferable to draft the bill afresh, rather than attempting such a significant amendment. Alternatively, given the ineffective nature of the previous legislation, the expense involved in conceiving, drafting and defending it, and its erosion of fundamental constitutional and civil rights, the bill should be dropped altogether.

Most notably the bill is not yet in a form that allows for proper or meaningful public consultation. I strongly urge the extension of the deadline on this consultation and the release of more meaningful explanatory materials and legal advice to inform public comment.

Yours sincerely,

Dr Brendan Gogarty

Director, Clinical Legal Practice, UTAS.
Senior Lecturer, Faculty of Law.
Barrister & Solicitor, TAS.

Faculty of Law

Private Bag 89
Hobart Tasmania 7001
AUSTRALIA

T +61 3 6226 7562
E Brendan.Gogarty@utas.edu.au
ABN 30 764 374 782 / CRICOS 00586B

utas.edu.au

Workplaces (Protection from Protesters) Amendment Bill 2019

Background

The *Workplaces (Protection from Protesters) Amendment Bill 2019* ('amendment bill') aims to amend the *Workplaces (Protection From Protesters) Act 2014* (the 'anti-protest legislation'). The 2014 anti-protest legislation (or at the least the bulk of its operative provisions) was declared constitutionally invalid by the High Court (6:1) in the decision of *Brown v Tasmania* (2017) ('Brown').¹

The majority decision in *Brown* was split over four separate judgments (one joint judgment). This makes it hard, if not impossible to determine which specific provisions of the anti-protest legislation were invalid. That is made more complex because:

- The majority did not speak with a unified voice about which specific operational (rather than administrative or definitional) provisions were invalid;
 - Those operational provisions (ss 6, 8, 11, 13) were contingent and interrelated with respect to the offences under appeal – a declaration of invalidity in one may or may not mean that others are invalid;
 - The operational provisions were given force and effect by incidental administrative and definitional provisions (i.e. ss 3, 5, 7, pt IV).
- As Gageler J explained, the network of provisions meant that it was not possible to sever one part of the anti-protest legislation from the whole.²
- Furthermore, the majority reasoning was confined to the charges under appeal and not the entirety of the Act. It may very well be that other provisions, in other circumstances would also give rise to invalidity.

Consequently, it is not possible to say with any degree of certainty which provisions of the anti-protest act survived the Court's declaration of invalidity. Expert commentators assumed the result of the decision was that the entirety of the legislation was invalid. Despite this, the amendment bill opts to substantially amend the 2014 anti-protest legislation (albeit removing reference to protesters). No explanation has been provided for opting for this approach, instead of creating a new bill.

¹ (2017) 261 CLR 328.

² *Brown*, note 1, [234]

Whilst opting to redraft ensures any resultant legislation will retain its date of enactment, the High Court's declaration of invalidity means that the bulk of the law must be altered – including the proposed legislation's title – creating risks that the law continues to be uncertain and potentially invalid. Beyond that there are real risks that any resulting legislation will be cast too broadly, seriously proscribing civil liberties without sufficient limitations on executive power. The re-drafting approach, and the resultant proposed legislation, are problematic because:

- **Capacity for meaningful public consultation is lacking.** The submission date should be extended until such time as appropriate materials are provided to the public to allow them to understand and respond to the proposal.
- **The amendments introduced a range of redundancies.** The bill needs to be revised as a consolidated whole, or entirely rewritten.
- **The bill omits essential protections.** The bill must re-introduce essential requirements for warning and direction in advance of arrest.
- **The bill remains overly broad and excessive in scope.** The act as a whole, but especially the definition of 'impeding' need to be revised to circumscribe the effect of the law to more reasonable proportionate temporal, geographic and causative limits.
- **The bill does not sufficiently address the *Brown* majority's finding in relation to forestry land.** The lack of clarity about when a person was truly interfering with or impeding forestry operations is not resolved by the amendments. Only actual, physical acts of interference which cause harm to persons or property should be proscribed. Alternatively, forestry provisions should be removed altogether as they are already protected by code and common law.
- **The bill remains punitive and unbalanced.** The bill continues to focus myopically on the rights of business without any commensurate concern for civil or political rights. The bill should clarify that citizens have the right to associate, criticise government and business, and express their political views.
 - Alternatively, given every single provision replicates an existing common law and/or code offence, the bill could simply be dropped.

Each of these problems and recommendations have been explained in more detail below. In addition, a marked version of the proposed legislation, in consolidated form, has been attached to assist the consultation process.

Terms

Given the potential for confusion please note I have adopted the following terms:

- **'Anti-protest legislation'** means the original (largely invalid) 2014 legislation (it cannot technically be referred to as an 'Act', because a declaration of invalidity means its enactment had no legal affect).
- **'Amendment bill'** means the 2019 bill which is currently subject to consultation and which will have the effect of amending the Anti-protest legislation.
- **'Proposed legislation'** means the proposed *new* legislation, which would be a consolidation of the amendments from the amendment bill into (including altering or removing provisions of) the anti-protest legislation.

BG. 21/2/2019.

Capacity for meaningful public consultation is lacking

The Bill was released on a public holiday (Australia Day) during a state of emergency (widespread bushfires across the state). No government notices were issued on the day relating to the bill about its release. Press releases appear to have been back-dated on relevant website.

The removal of the majority of operative and incidental provisions from the legislation means that the amending provisions are extensive (18 pages long) and effectively involve rewriting the legislation from the inside out. The choice of amendment rather than re-draft makes it exceptionally difficult to conceptualise the proposed legislation from a macro perspective, to see how its provisions operate together or consider what has been removed and replaced.

The public has been left to comment on a highly complex amending bill, without a consolidation of the proposed legislation and only the High Court decision to guide them.

- The High Court decision is over 180 pages long, and involves complex constitutional reasoning in five separate judgments by the High Court.
- It is highly improbable that non-lawyers would be able to fully engage with the High Court decision and use it as a basis for informed review and critique of the amendments.
- No legal advice or other information has been provided to explain why various provisions have been removed, amended or inserted in response to the Court's (various) ratio.

It is a fundamental rule of law principle that the public are able to understand what rights and duties they have, and which of those rights and duties are to be altered or taken away by law. Given the bill imposes criminal sanctions and modifies a range of common law freedoms – including freedom of speech, association and movement – clarity and accessibility should have been central to its redrafting and consultation processes.

At the very least the period for public consultation for this bill period should be extended. Prior to that extension the public should be provided with plain-English resources including:

- An explanation, for non-lawyers, of the original legislation and why it found invalid by the High Court.
- An explanation of how the new bill will avoid further invalidity and why.
- A consolidation proposed legislation rather than a collection of amendments for the public to interpret themselves.
- An explanatory memorandum of the overarching objects and purposes of each of the operative provisions of the proposed legislation.

The amendments introduced a range of redundancies

Given the complexity of the amendments and how much of the legislation needed to be modified, a range of 'dead wood' provisions appear to have been left within proposed legislation. For instance:

1. Proposed s 6 of the amendment-bill amends the definition of "*business-related object*". However, all provisions of the legislation which contain the term "*business-related object*" are then removed by the amendment bill. Other definitions in s 3 (*process, timber*) appear similarly redundant.
2. While the Amending Bill states "Sections 6, 7 and 8 substituted" in fact no substitute is provided for s 8.
3. S 11 has also been removed entirely.
4. Newly inserted provisions such as 5A are lacking fundamentally important definitions relevant to the operation of the provision.
 - These include "*prescribed manner*", "*prescribed words*" and "*prescribed distances*".
 - The bill does not set out what these prescribed things are, the process for their prescription or any relevant definition of the terms that might assist the reader to understand how the provision will operate.

The manner chosen to re-write the law requires drafters work at a high level of abstraction. What is produced in the amendment bill is even more abstract, and it is likely to produce errors and omissions in the proposed legislation.

The consultation process should be put on hold until appropriate time has been devoted to rigorously reviewing the amendments and suitable materials are provided

to those who are ostensibly to be consulted to allow for meaningful participation in the process.

The bill omits powers to direct, warn and move-on before arrest

The removal of entire provisions from the anti-protest legislation has had the side effect of removing limitations on executive power, and therefore civil rights. It is unclear whether this was intentional.

Of particular concern is the entire removal of sections 8 & 11 without replacement. These sections, amongst other things, allowed police to direct persons away from a 'business premises' or 'business access area' prior to arrest.³

Whilst ss 8 & 11 of the anti-protest legislation were amongst the provisions struck down by the High Court, their invalidity was not a consequence of the subject matter of the directions, only the lack of clarity about when and where it could legitimately be used.⁴ In fact, the majority recognised the importance of police directions, not only as an aspect of procedural fairness, but also an important indicia of proportionality in respect of a law that burdened the implied freedom.⁵

³ A good description of how those provisions provided police the power to direct and move protesters on can be found in Gordon J's judgment, *Brown*, note 1, starting at [356]

⁴ Because it was unclear *when and where* an illegal act might arise, a police officer might 'erroneously' direct a person to move away from a place where they had a legal right to be. *Brown*, note 1, [80]-[81] Further, because a warning could be given to a 'group of persons', even by loudspeaker, there was a chance that either some of the group:

a) didn't hear the direction but would still be liable for an offence (*Brown*, note 1, [268]) or
b) did hear the direction but were in fact not breaching the law at the time, but were still required to move on or (*Brown*, note 1, [82]-[83]).

⁵ Indeed, the joint-judgment noted the constitutional *validity* of similar powers to direct protesters away from forestry land under *Forestry Management Act* (FMA). That was because, unlike the protest legislation, the power under the FMA is "limited to no more than is necessary for the operations and to ensure continued public access." limited to no more than is necessary for the operations and to ensure continued public access. (*Brown*, note 1, [113]-[116]). Gageler J – who provided the most wide ranging declaration of invalidity – went further, determining the interoperation of ss 11(6) and 6(4) to be invalid because, on his reading they permitted arrest "without any warning needing to be given". Given that the law was: a) already vague and b) imposed significant penalties for breach; His Honour found the ability to arrest without prior direction was constitutionally disproportionate (*Brown*, note 1, [231]-[232]). Conversely the partial and full dissenting judges justified their dissent partly on the basis that the anti-protest was 'incremental', insofar as police were expected to warn and direct in advance of arrest. See *Brown*, note 1, Gordon J [411], [419]-[421], Edelman J [523]-[529]).

The amendment bill will impose significant criminal penalties for a broad range of activities which may interfere, to some degree with business. Yet, the bill provides no guidance on how police are to determine whether a person intends to interfere with a business in such circumstances. Given that is the case it would seem to be essential that a person be afforded the right to know they may be arrested and given the chance to move away from the zone where their offending behaviour is thought to be occurring. This would allow the individual to continue to engage in constitutionally protected political expression within the limits of the law.

Beyond the basic civil protections, the removal of the police direction provisions render the proposed legislation susceptible to constitutional invalidity. The amendment bill should be updated to include mandatory police warnings and move-on directions in advance of arrest.

The amendment bill remains overly broad and excessive in scope

As noted, much has been cut from the bill in the effort to render it compliant with the High Court's judgment. However, the result of removing qualifying and clarifying elements of offense renders some provisions broader and less precise. This is most evident in the proposed offense provision, s 6.

Section 6 aims to proscribe impeding – defined to include 'preventing, hindering or obstructing' (s 3) – 'business activity'. Given they are not further defined or circumscribed, each term relies on its common-law definition, which effectively extends 'impeding' to:

- Any act which makes any aspect of a business more difficult to carry out.⁶
- So long as the effect of impeding is 'appreciable';⁷

⁶ Impeding includes 'obstruction' which, at common law covers non-physical interference (*Standen v Feehan* (2008) 175 IR 297) It further includes 'hindering' of business, which absent qualifiers covers any 'appreciable' interference (*Darlaston v Parker and Others* [2010] FCA 771).

⁷ *Grocon & Ors v Construction, Forestry, Mining and Energy Union & Ors* (2013) 234 IR 59, 102), *Standen v Feehan* (2008) 175 IR 29

- Regardless of whether the interference is complete, serious or even physical in character (i.e. interfering with the market for a product hinders, and therefore impedes a business).⁸

Reasonability

The bill limits the crime of impeding to intended acts only, and specifies an officer may only arrest a person upon the reasonable belief of the commissioning of such an offence. However, no criteria are set out for police to determine whether a person can be reasonably be assumed to 'intend' to impede business – versus say, merely participating in a civic event, awareness raising or otherwise. Given the scope and nature of the act proscribed by the proposed impeding provision, this is likely to lead to uncertainty and arbitrariness in the exercise of police powers.

Trespass to land/vehicle

In the case of impeding by trespass to land (s 6(1)-(2)) or vehicle (6(3)), there are some geographical and temporal limits to the scope of the crime. Namely a person must:

- a) Be on the business premises or vehicle and
- b) impede business on/in the business premises or vehicle and c) intend to have done that act.

Notably, a person is taken to trespass *as soon as* they are directed to leave the premises (6(2)(b), 6(4)).⁹ This would seemingly include customers of a business who did leave on request – for instance a person demanding and being refused a refund at a cash register to which they may be otherwise legally entitled – subjecting them to a significant indictable criminal penalty should they remain, even temporarily following the request.

Thoroughfare obstruction

Unlike the trespass provisions, the 'thoroughfare' provision of 6(6) contains no physical, temporal or geographic limitations at all. That sub-section states:

⁸ Ibid.

⁹ Albeit under a separate law, as the current bill does not provide for such directions

“A person must not cause the use or enjoyment of a public thoroughfare to be obstructed, if the person intends, by so doing, to impede the carrying out of a business activity.”

The term ‘thoroughfare’ here is deceptive because its ordinary meaning is to be amended to encompass ‘any public place’ or waterway (s 3). In effect, anywhere in the public domain – and some private spaces like easements – are thoroughfares for the purpose of the amendments. In addition:

- The provision lacks a causative connection; the focus of obstruction caused is not *to the business*, but rather *to the public thoroughfare*.
- The provision lacks a *temporal* relationship between the obstruction and impeding; an act of obstruction may impede business at a later date.
- The person causing the obstruction to that public place is not required to be actually physically present on that thoroughfare; they might cause the public obstruction from their own property.

The following of civic, political expression sufficiently meet the elements of the proposed offence:

- A person holding placards at Salamanca Market containing photos of slaughtering operations conducted by a Tasmanian game meat abattoir (located elsewhere in the state);¹⁰
- A person handing out pamphlets on the footpath of a café calling for a boycott of a Tasmanian business, with the consent, or at the invitation of that café would: also meet all the elements of the crime.
- *Brown* type cases of forestry protesters on the verge of a logging coupe, regardless to the degree of actual physical interference, or the distance they are away – discussed below.

¹⁰ In that it would: a) obstruct foot traffic at the market; and b) clearly intend to impede business sales of that abattoir, if not immediately then over the long term, despite; c) that abattoir being located in a different part of the state. The High Court has previously confirmed that protesting slaughtering operations is an expression of political communication. *ABC v Lenah Game Meats* (2001) 208 CLR 199. i.e. esp Kirby J at 218 “Parliamentary democracies, such as Australia, operate effectively when they are stimulated by debate promoted by community groups. To be successful, such debate often requires media attention. ... antivivisection and vegetarian groups are entitled, in our representative democracy, to promote their causes, enlisting media coverage ... The form of government created by the Constitution is not confined to debates about popular or congenial topics.”

As noted, the police have no power to warn or direct the persons in advance of their arrest, rendering that person liable for up to \$5,000 in penalties and 18 months imprisonment for a first offence, or \$10,000 and 4 years imprisonment for further offences.

As a whole s 6 is excessive, unnecessary and disproportionate especially to the extent any obstruction was for the purposes of communicating about matters of government and politics. The lack of geographical, causative or temporal connections in 6(6) suggests that the provision does not sufficiently circumscribe the scope of the law to a degree necessary to satisfy the majority's finding in Brown, especially in cases with similar facts.

Threatening

The new consolidated provision of threatening proscribes threatening to commit an offence against section 6 in relation to business premises or a business vehicle if the person intends, by so doing, to impede the carrying out of a business activity on the business premises or in, on, or carried out by means of, the business vehicle."

In extending the bill to regulating words it steers the bill dangerously into the territory of freedom of expression the provisions of the bill to expression. This is especially problematic given the lack of clarity to the offence and the confusion it creates in respect of its interrelationship with other parts of the bill – echoing the faults of the previous anti-protest legislation. Notably:

- As with other provisions the offence lacks temporal or geographic elements – it may be committed at any place (apparently including online) and at any time.
- No actual impeding of business must occur. Rather, the offence requires that merely an *intention* to impede by threatening to commit an offence against s 6.

- Most confusingly the offence apparently requires two separate intents in relation to the same crime; the intent to impede by threatening and the threat to do an act which itself must possess an intent to impede business.¹¹

How these two forms of overlapping intention are supposed to operate is unclear. It is also unclear how the first intent can be made out if the act has not yet been committed. Nor is it certain how a police officer would determine say, that both the bare threat is done with the intent to interfere and the content of the threat – an act which has not yet occurred – would hypothetically amount to an impeding of business.

The threatening offence is offence is overly broad, speculative and entirely uncertain in scope. Given the clear potential to impact on freedom of political expression, the level of ambiguity within the provision, particularly in relation to its scope and application, it raises the same problems that led to the declaration of invalidity in *Brown*. Proposed s 7 should be removed in its entirety.

The bill does not sufficiently address the majority's finding in relation to forestry land

Whilst the High Court delivered differing majority judgments in *Brown*, the 2014 legislation's nebulous demarcation of forestry land and business was universally considered invalid.¹² The joint-majority judgment summarised the problem as follows:

The principal problem, practically speaking, for both police officers exercising powers under the Protesters Act and protesters is that it will often not be possible to determine the boundaries of "business premises" or a "business access area". That problem arises because the term "business premises" is inapt for use with respect to forestry land. The definition of "business premises" with

¹¹ For instance, in relation to the trespass offence (61) a person must: a) Threaten to trespass in a manner which intends to impede the carrying out of a business activity on the premises (6(1)); and b) By so [threatening] intend to impede to impede the carrying out of a business activity on the business premises.

¹² This focus was partly a consequence of the facts of the case – the plaintiffs were arrested near forestry operations – as well as the underlying policy aim of deterring forestry protests within the anti-protest legislation. However, the nature and form of forestry operations when combined with the lack of precision in the criminal provisions of the anti-protest legislation was a significant factor leading to invalidity.

respect to forestry land does not provide much guidance. The question simply becomes whether a protester is in an area of land on which forest operations (a widely defined term) are being carried out.

The bill only proposes to amend one of these problematic terms – “business access area”. However, it maintains the definitions of “forestry land”, “forest operations” and “business premises” (ss. 3,5) from the anti-protest legislation in the proposed legislation without alteration. It is highly questionable whether amending only one of the four terms that were considered collectively invalid is sufficient given their contingent and relational nature. This is because:

- Forestry land is generally large, and necessarily *forested*, meaning many parts of it may be visibly obscured. Despite this there is no proximate element to the offence. Given the size and nature of forestry operations, a protesters may be on, or around forestry land but still far away from actual ‘operations’ conducted on that same land.
- As explained above appreciable non-temporal future impact to a business market satisfies the broad conception of ‘impeding’ under the Act.
- In most cases forestry protests will fall under the common-law definition of ‘hinder’, if not in the immediate sense because of direct physical interference, then certainly over the longer term because of market impact.
- Notably, the Appellants in *Brown* were arrested for non-physical interference with forestry operations – and the High Court appears to have accepted that these actions ‘impeded’ the operations, notwithstanding they did not cause a direct interruption with logging.¹³
- Thus, the trespass offence captures persons who may be peacefully protesting at a distance from, or out of sight of, forestry operations and who are not causing a direct physical interference with those operations (as was the case in *Brown*).

The trespass offence in the amendment bill therefore appears no more constrained or prescribed than it was in the anti-protest legislation.

¹³ The plaintiffs’ actions in *Brown* were assumed not to involve a direct physical act of impeding forestry operations [37]. Instead the High Court accepted their actions were peaceable and designed to “raising public and political awareness about the logging of the forest and voicing protest to it” [4]. Despite this, the police officer arrested the plaintiffs, presumably on the assumption that their indirect acts were sufficient to ‘hinder’ forestry operations and business (the invalid legislation contained terms identical to the proposed consolidated ‘impeding’ definition). The court notes that televised protests are designed to and will often have an indirect, but appreciable impact on the market for and regulation of forestry products and industry [65], [181].

The thoroughfare offence is even more problematic, being wider and more nebulous in its operation. That is because the offence:

- Does not set out any prescribed distance from the boundary of forestry land, or operations therein – a person may be in a public space in Tasmania and still commit the offence so long as the other elements of the crime are satisfied.
- The intention to impede does not need to be directed to any specific forestry operation *on the site* – but simply ‘business activity’ in general, apparently anywhere in Tasmania. Again, forestry operations do not need to actively be carried on at the time of a person’s arrest.
- The act of obstruction has no relationship with the operations on the site, but rather with the public space itself. The simple act of standing in a space – and particularly as a group of protesters – satisfies the elements of the crime.
- An intention to interfere from the verge of forestry land (or any business land) will not always be clear on the facts. This is especially problematic given there are no longer any police warning/direction requirements in the bill.
- The lack of legislative criteria to inform what constitutes a reasonable belief of a person’s intent create *Brown* level uncertainty when the act is done to raise awareness rather than cause direct physical interference.

Demarcation of forestry land

The proposed demarcation provisions do not solve proportionality issues with the amendment bill, especially in relation to forestry land. That is not least because no actual method of demarcation is set out by the amendment bill. Even should land be demarcated as forestry land, the lack of temporal or geographical elements linking the impeding or obstruction renders their effect arbitrary at best. Equally problematic is that the demarcation provisions are not actually mandatory, they appear to provide powers to additionally capture areas that do not fall within the ordinary definition of forestry land.

Section 6 as a whole are likely to be disproportionate in *Brown* situations

As they currently stand, the proposed provisions – especially 6(6) – are not reasonably appropriate and adapted to the protection of forestry operations in matters similar to those which gave rise to the *Brown* decision.¹⁴ What clarity has been provided by

¹⁴ see [69]-[72], [236] judgment.

removing the artificial boundary between premises and business access area has been undone by leaving the entirety of Tasmania as a prescribed zone, and making any act affects the forestry industry a prescribed activity. The provisions remain lacking in necessity and unbalanced in its approach in relation to the implied freedom. Too little thought and consideration has been given to adapting limiting the criminal law to facilitating peaceful political discourse.

The amendment bill does not adequately respond to the determination of the majority of the High Court in *Brown*. It should be dropped or entirely rewritten.

The bill remains punitive and unbalanced.

The High Court does not 'roam at large' over an entire Act when the pleadings and facts do not require.¹⁵ Amendments to the anti-protest legislation should be informed by broader considerations than simply the *Brown* decision, give that it was necessarily limited to the facts of that case. It is quite possible that the 2014 legislation may have been found invalid in different circumstances for different reasons.

Many of the concerns raised by the legal community to about the 2014 bill remain relevant to the 2019 amendment bill. These include:

- That the bill, like its predecessor elevates business over civil rights.
- The bill entirely replicates existing code and common law offences – including trespass, nuisance and public disorder – but imposes stricter and higher penalties where the relevant act affects a business.
- The protections for business are extreme in their form:
 - All acts affecting the business, be they minimal annoyance or severe and complete shutdown of operations are subject to the same criminal penalties.
 - No countervailing or counterbalancing protections are provided to this singular focus on protecting business.

¹⁵ *NSW v Blair* (1946) 73 CLR 213 at 227

- The bill makes no attempt to recognise or protect the rights and freedoms of individuals to express themselves, associate and exchange ideas, to criticise, and indeed to protest against businesses in a democratic society.¹⁶

Notwithstanding the dropping of reference to protesters, the functional impact of the bill remains the same – as a deterrent to protest activity, including peaceful political protest. It is too broadly cast, too limited in its consideration of civil and political rights and too harsh in its penalties. The amendment bill should be dropped or entirely rewritten.

¹⁶Such balancing may be found in other jurisdiction's laws on protest. For instance, the Queensland *Peaceful Assembly Act 1992* proscribes illegal assemblies but balances this with the express right "to assemble peacefully with others in a public place" subject to public safety, public order, or the protection of the rights and freedom of others.