

Australian state premier declares he will "cement" long-term prisoners in their cells

Mike Head
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Enlightened social policy used to be measured by how humanely a state treated its prisoners and how effectively it could rehabilitate them so that they could safely return to society. Since being elected in 1995, Bob Carr, the Labor Party Premier of the Australian state of New South Wales, has never missed an opportunity to denigrate and repudiate these conceptions.

Carr was back in the headlines again on May 25 when he announced special legislation to prevent the release of 10 of the state's convicted murderers. Carr declared that the men would be "cemented in their cells".

His government's Crime Legislation Amendment (Existing Life Sentences) Bill effectively removes the right of pre-1990 prisoners who were classified by their convicting judges as "never to be released" to seek parole. At present, those jailed for life before the imposition of harsh "truth-in-sentencing" laws in 1990 are entitled to have their sentences converted to a fixed term with a set non-parole period, after which they can apply to be released on parole.

When the previous Liberal Party government of Nick Greiner introduced the 1990 legislation, designed to make prisoners serve the full sentence imposed on them, it provided for existing life prisoners to apply to the state Supreme Court for a set term in line with the new system. The Carr government now intends to take that discretion away from the Supreme Court.

Carr unveiled his legislation as soon as Supreme Court Justice Greg James ruled that one prisoner, Allan Baker, 53, was ineligible to have his sentence reduced. James issued his ruling despite favourable reports that Baker, who has served 27 years for a 1973 murder, had been rehabilitated and had been a model prisoner for the past decade. The judge quoted with approval the sentencing remarks in 1974 of Justice Robert Taylor, who labelled Baker and his co-accused, Kevin Crump, as "obscene animals".

James' decision underscored how draconian the existing system is. It already makes it highly unlikely that any of the pre-1990 "lifers" would be released before they were old men. Even if their sentences were re-determined by the Supreme Court, the state Parole Board might well reject their applications and keep them in prison indefinitely.

Nevertheless, Carr seized the opportunity to declare that his government would not allow any such applications to proceed. "These changes mean that Baker and other never-to-be-released prisoners can only ever be released if they are on their deathbeds or so incapacitated that they would pose no threat," he stated.

Carr's political grandstanding demonstrates how far he will go to

drum up "law and order" hysteria to demonise those convicted of crimes, introduce ever-harsher punishments and justify sweeping police powers. Carr and his fellow Labor leaders are increasingly pandering to extreme right-wing elements by renouncing any notion of the rehabilitation of prisoners.

The prisoners to be "cemented" in their cells were all young men when they committed their brutal crimes, involving murder and rape. Two were teenagers at the time, and six were in their early 20s. Carr's legislation will mean that even after being incarcerated for 30 years or more, none will have the chance to demonstrate that they are capable of returning to society.

Carr's demand for "throwing away the key" on convicted killers leads logically to the revival of the death penalty, last used in Australia when Ronald Ryan was hanged in 1967, provoking considerable public opposition. If life prisoners are to be treated as incorrigibly evil "animals" and locked away forever at government expense, why not execute them? The same reactionary nostrums of revenge and retribution apply.

Some lawyers and writers have strongly condemned the legislation as harsh, discriminatory and ominous. A leading barrister, Stephen Odgers, pointed out that the judges who recommended that the prisoners never be released might not have actually imposed mandatory full-life sentences if they had the power to do so before 1990.

"Evidence might have been produced suggesting some chance of rehabilitation after many years in prison. The youth of the offender might have given cause for hope... It is worth noting that two of those subject to the new legislation, Matthew Elliott and Matthew Blessington, were juveniles when they committed their crimes."

Odgers argued that decisions about the rehabilitation or dangerousness of a prisoner should be made after a substantial period of imprisonment, rather than in the emotional circumstances of the trial and sentencing. "Even assuming that natural-life sentences are sometimes appropriate, they should be imposed by a court, fully informed as to the facts of the case and present circumstances of the offender, hearing full argument, and with the possibility of an appeal to a higher court."

Journalist and author Malcolm Brown asked where the line would be drawn in locking prisoners away for life. Would life sentences apply to all sexually motivated murders, or cases of aggravated violence or massacres? In effect, the "cementing in" rule would be applied in a lynch-mob atmosphere.

Brown recalled that at least one newspaper editor, Peter Curran

of the *Illawarra Mercury*, had called for the perpetrator of the 1996 Port Arthur massacre, Martin Bryant, to be strung up without a trial. “Does the cement-mixer legislation take our legal system—though in a more sophisticated way—back to Cullen’s idea of lynch-mob justice?”

Carr’s legislation is just another example of his determination to lead the “law and order” push nationally, seeking to outdo every other state government, as well as the federal Howard government, in overturning basic rights, criminalising young people and imposing harsher sentences.

Unable and unwilling to alleviate declining social conditions, and confronted by rising tensions fuelled by the growing gap between rich and poor, the Labor leaders are seeking to divert attention away from the social crisis and any examination of the roots of violent crime.

At the same time, facing mounting disaffection in the working class, the Labor leaders are attempting to forge a new right-wing political base of support for their program of implementing the requirements of big business. In order to impose that program, they are increasingly resorting to the most repressive measures, creating police-state conditions in working class areas and ripping up basic democratic rights.

This can be seen in the Carr government’s announcement, five days later on May 30, that it would further extend police powers, this time to conduct forced body scans, including on children as young as 10. Under its Police Powers (Internally Concealed Drugs) Bill, police will be able to detain anyone aged 10 or more, take them to a hospital or surgery and compel them to submit to an “internal search” using ultrasound, x-ray, MRI or CAT scan.

Police will need only to claim “reasonable suspicion” that a person is concealing illicit drugs in a body cavity. In order to detain and search children, and adults who refuse to consent to being searched, police will simply have to obtain approval from a magistrate or judge.

If a body scan allegedly shows evidence of hidden substances that could be drugs, police can detain suspects for up to 48 hours, or longer if approved by a magistrate, in order to allow the drugs to pass from the body.

Police can currently detain people for several hours for questioning but beyond that they must lay charges. Under the pretext of cracking down on drug usage, the Labor Party leaders are handing police de facto detention powers as well as the right to impose intrusive body scans.

The Bill has been added to another announced by Carr two months ago, which will allow police to arrest anyone who enters or leaves an alleged “drug house”. Both Bills repudiate long-established legal principles. The first effectively reverses the presumption of innocence, placing the onus on those seized in a “drug house” operation to prove that they had a lawful reason for being on the premises. The second undermines the principles of freedom from forced medical procedures and detention without trial.

Lawyers and civil liberties groups have condemned the new Bill, describing it as draconian and potentially traumatic for children. Association of Children’s Welfare Agencies chief executive officer Nigel Spence raised concerns about police misuse of the powers.

“Forcibly holding children in hospitals and using what are still fairly invasive procedures is quite concerning,” he said. “It’s a very heavy-handed approach.”

Associate Professor Chris Cuneen, director of the Sydney University Institute of Criminology, told the media he was concerned about how the police would use their new powers, because the application of a previous power that the Carr government gave police—to stop and search anyone on the suspicion of carrying a knife—did not “give us much faith in the equity of the laws”.

There is clear evidence of the harassment of working class youth, particularly in areas with a significant Aboriginal population. Last year, police used knife search powers 54,922 times and seized 10,657 knives, indicating that nearly 80 percent of the searches were unwarranted. One-third of the searches involved juveniles and 83 percent of those failed to find a knife or prohibited implement. In north-western NSW, where many Aborigines live, 85 to 90 percent of searches were unsuccessful.

The government has introduced a battery of laws against young people since coming to office in 1995. Police can now impose curfews, remove children from public places, issue general “move one” orders, randomly search cars and stop and search people on the street.

Through these and other measures, the Labor leaders are driving up the prison population. Last month’s state budget allocated \$159 million to create 750 extra prison places, recruit 300 more prison officers and continue building three new jails. It predicted that, having increased from 6,500 to 7,700 (nearly 20 percent) in two years, the number of prisoners would keep rising.

The same government is presiding over worsening unemployment, declining health services, scandalously inadequate mental health facilities, deteriorating government schools and shrinking public housing. By way of comparison, the extra money for jails exceeds the \$157 million put aside to clear a backlog of school repairs, which includes such sorely-needed work as “painting walls, laying new carpet and fixing broken windows”.



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