

Australian state Labor government strengthens draconian anti-association laws

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Last November, after being in office for nearly two years, the Labor government in the Australian state of Queensland enacted legislation to replace one of the most notorious anti-democratic statutes adopted by the previous Liberal National Party (LNP) government—the Vicious Lawless Association Disestablishment Act of 2013, commonly known by the acronym VLAD.

Premier Anastacia Palaszczuk’s new legislation, the Serious and Organised Crime Legislation Amendment Act, will replace the VLAD laws, once the latter’s key provisions have been phased out during the next two years. These provisions include the sweeping anti-association offence, which led to the prosecution of innocent people only remotely connected to an alleged “bikie gang,” and caused major public outcries.

Palaszczuk is following in the footsteps of her predecessor, the LNP’s Campbell Newman, and other state Labor governments, in strengthening laws that provide far-reaching powers to the police and courts under the guise of combatting organised “outlaw motorcycle groups.” She declared that the new laws would give Queensland the “toughest organised crime laws” in Australia.

Like many other measures taken by the Newman government, the VLAD laws provoked widespread opposition. This became part of the anger over the LNP’s deep public sector cuts and attacks on democratic rights that enabled Labor to claw its way back into office only three years after being defeated in a landslide election loss. Any illusions that a Labor government would restore civil liberties, however, have been dashed.

Labor’s legislation constitutes a further attack on basic legal and democratic rights, with provisions that can be used to crack down, even more broadly than the VLAD laws, on targeted organisations and individuals,

including those associated with social unrest and political dissent. The highly complex legislation—the official explanatory notes run to 179 pages—retains many of the features of the VLAD laws, but, in some respects, goes further.

As with the VLAD legislation, the new Act will not just affect alleged “bikie gangs.”

Under the VLAD Act anti-association provisions, anyone convicted of committing a declared serious offence while a “participant” in an association (which includes taking part in one event), can be declared a “vicious lawless associate,” unless they can prove that the association does not have a purpose of “engaging in, or conspiring to engage in, declared offences.” This not only reverses the burden of proof for a criminal trial, but such proof may be impossible.

The VLAD provisions will eventually be replaced by a variety of new offences and police powers. These include a new offence of habitually “consorting” with “recognised offenders.” A recognised offender is anyone with a recorded conviction for an indictable offence punishable by at least five years imprisonment or other offences that can prescribed by ministerial regulation.

“To allow for a seamless transition to the new framework,” Labor’s Act continues the proscription of 26 entities outlawed by ministerial decrees under the VLAD laws and permits further banning declarations on vague grounds, such as activities that “may cause other persons to feel threatened, fearful or intimidated” or “increase the likelihood of public disorder.”

There is also a new broad definition of “criminal organisation” as “a group of three or more persons, whether arranged formally or informally who engage in, or have as their purpose (or one of their purposes) engaging in, serious criminal activity; and who, by their

association, represent an unacceptable risk to the safety, welfare or order of the community.”

In order “to remove doubt,” the section expressly provides that it does not matter whether the group of persons has a name or is capable of being recognised by the public as a group, or has an ongoing existence or has a legal personality.

The term “engage in” serious criminal activity is defined to include: “organise, plan, facilitate, support, or otherwise conspire to engage in, or obtain a material benefit, directly or indirectly, from.”

Likewise, the new Act expands the VLAD laws ban on wearing “colours” associated with a motorcycle club. Previously, the wearing of gang colours and other identifying symbols was prohibited in licensed venues. Now this prohibition will be extended to all public places.

Labor’s Act retains mandatory sentencing, but because of the extent of opposition to this measure, the prison term has been lowered from 15 years, with 10 additional years for association office holders, to 7 years, with no extra time for office holders.

The Act goes further than the VLAD laws by introducing a scheme of three new “public safety protection orders,” purportedly to “pre-emptively disrupt criminal and anti-social behaviour and protect public safety.” To be issued by police or magistrates, these orders give vast powers to the police:

- Control orders will severely limit the freedoms of those convicted, who will be banned from attending certain places, and restricted in their use of electronic devices, where they work and with whom they have contact. These are infringements on basic freedoms of association, expression and movement.

- A magistrate can impose a “Restricted Premises Order” if a police officer “reasonably suspects” that unlawful or disorderly conduct is occurring. Police can then search the premises at any time without a warrant and seize property, including furniture and entertainment systems. The Commissioner of Police can forfeit anything seized by police, with no compensation. Premises previously shut down by the VLAD laws automatically will be declared restricted premises, unable to be reopened.

- Through “Public Safety Orders” the police will be able to prohibit a person or a group from entering a place or attending an event. All that is required is for a

police officer to consider a person, or a person’s presence, a risk to “public safety.” Only bans of longer than seven days will require a magistrate’s approval.

The biggest problem with the VLAD laws, according to the Labor government, was that none of the 100 people charged under them was convicted. Attorney-General Yvette D’Ath said: “The bill delivers a reform package that is both legally robust and operationally strong.”

Over the past decade, on the pretext of protecting the public from “bikie gangs” or “criminal organisations,” LNP and Labor governments alike have introduced unprecedented laws that can and will be used against all those who come into struggle against ever-worsening economic and social conditions.

Under Palaszczuk, nothing has improved for workers and youth since the LNP was thrown out of office. The collapse of the mining boom has accelerated the destruction of full-time jobs and devastated many rural towns and working-class suburbs. Labor Party figures and their trade union associates are acutely aware that growing unemployment, the imposition of low-paid work and widening inequality, along with preparations for war, will provoke intense social and class struggles.



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