

Australian bushfire crisis highlights sweeping emergency powers

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Australia's months-long and continuing bushfire calamity has produced multiple declarations of emergency, revealing some of the extraordinary powers that governments and police forces can invoke in times of crisis, and not just climate-related disasters.

By gutting firefighting and other critical civilian resources, and refusing to address global warming in order to bolster corporate profits, Labor and Liberal-National governments alike have helped create the hellish conditions of fire, smoke and economic ruin that millions of people are facing. At the same time, they have seized upon this catastrophe to trigger the use of draconian “state of emergency” measures.

No federal emergency powers legislation exists in Australia, but each state and territory has statutes that give powers to their executive governments, individual ministers and police chiefs to tear up basic legal and democratic rights. By declaring states of emergency, they can take whatever actions they deem necessary, including to issue orders and directives, and arrest and charge anyone who fails to comply.

Amid the bushfire devastation, the corporate media coverage has uncritically proclaimed these powers as necessary and kept the population in the dark about their extent. In particular, nothing has been reported about their capacity to be used to override any law, including supposed human rights protections, in order to suppress rising popular unrest and political discontent.

In addition to hundreds of local emergencies declared in immediately fire-threatened suburbs, towns and villages, statewide emergency proclamations have been issued in the country's three most populous states—New South Wales (NSW), Victoria and Queensland—since the infernos began last September.

The Labor government in the northern state of

Queensland, where fires erupted in September, including in rainforests previously regarded as too damp to blaze, set the first precedent. In early November, a “state of fire emergency” was declared across 42 local government areas throughout much of the state. It banned a long list of activities that could spark fires and handed authorities powers to commandeer facilities and equipment, backed by heavy fines or imprisonment.

Next, on November 11, NSW Liberal-National Premier Gladys Berejiklian proclaimed a seven-day state of emergency covering the entire state. On December 19, that was followed by another declaration for a week, and then a third such declaration on January 2. These declarations handed vast powers to the state's Rural Fire Service Commissioner, including to:

- Direct any government agency to conduct or refrain from conducting its functions
- Override any legislation or regulations
 - Control and coordinate the allocation of government resources
- Order the evacuation of people from declared areas
- Close roads and thoroughfares to traffic
 - Shut down essential utilities in declared areas, including electricity, gas, oil and water
- Enter or take possession of property.

Under Section 33 of the NSW State of Emergency and Rescue Management Act, the premier has effectively unbridled power to declare such an emergency. “Emergency” is defined to cover not just fire, flood, storm and earthquake, but also other “occurrences” such as “explosion, terrorist act, accident, epidemic or warlike action.” That definition is wide enough to include political protests or revolts, which can be deemed “terrorist” under the sweeping laws imposed under the cover of the “war on terror”

since 2001.

This repressive content is even more blatant under the “state of disaster” proclaimed by Victorian Labor Premier Daniel Andrews on January 2 and extended on January 9 for a further 48 hours. Utilising powers introduced after 173 people were killed in the state’s 2009 “Black Saturday” bushfire disaster, Andrews issued a declaration that covered six local government areas, plus Alpine resorts, across the eastern third of Victoria.

In addition to a similar list of powers as in the NSW legislation, Victoria’s Emergency Management Act specifically hands the emergency services minister the far-reaching power to suspend the operation of any legislation, regulation or rule.

The definition of “emergency” specifically includes an “act of terrorism,” “a hi-jack, siege or riot” and “a disruption to an essential service.” Under the Act, the government can proclaim any service to be “essential.”

Anyone who “obstructs” or “hinders” the minister, or any official authorised by the minister, can be jailed for up to two years. No-one can sue the government or any official for any damage, loss, death or injury sustained because of the exercise of these powers.

In addition, senior police officers can declare “emergency areas” and order the removal of anyone in the name of “public safety.” Fines of up to nearly to \$20,000 apply for defiance of any order or instruction. The only exception is that the owner of any land or building cannot be compelled to evacuate from it.

In Queensland, the Public Safety Preservation Act features further powers for police or emergency commanders to declare that an emergency has arisen, or is likely to arise, including an incident that “causes or may cause a danger of death, injury or distress to any person” or “a loss of or damage to any property.”

How these powers can and will be used for violent repression was demonstrated in 2004, when anger over the brutal killing of an Aboriginal man in a police cell boiled over on Palm Island, north of Townsville. Residents stormed the island’s police station, barracks and courthouse over the death of Cameron Doomadgee, 36, who had been locked up on a minor “drunk and disorderly” charge. Doomadgee’s death was one of hundreds of deaths of indigenous people in police custody or prisons over the past five decades.

As soon as the unrest erupted, the police invoked

emergency powers and flew in at least 80 officers, including the para-military Special Emergency Response Team (SERT). Backed by the Labor Party state government of Premier Peter Beattie, an emergency situation was declared under the Public Safety Preservation Act. Police seized control of the island’s airport, school and hospital, closed roads and launched terrifying raids on homes. Amid large-scale arrests, school classrooms became temporary holding cells and police dormitories.

Under the Australian Constitution, the states have retained authority over police and emergency services, giving them the frontline access to such police-state powers. But, facing deepening political disaffection, intensified by the bushfire disaster, moves are underway to reinforce this framework by allowing federal governments to more quickly mobilise the military for “emergencies,” with or without any state government request.

That is the content of Prime Minister Scott Morrison’s pronouncement this week of a “new normal” of inevitable climate disasters. According to his Liberal-National government, backed by the Labor Party, conditions justify casting aside the constitutional framework, in order to accustom the population to the deployment of thousands of troops. These measures are not driven by any genuine concern for the human suffering and ecological devastation being caused by corporate-driven climate change, but by fear of the rising popular discontent.



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