

Widespread opposition to Australian government ban on citizens returning from India

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In the week since the Liberal-National government declared it illegal for Australian citizens to flee India's coronavirus catastrophe and return to their country of origin, the callous and anti-democratic measure has been condemned by a broad array of human rights organisations, civil liberties groups and working people.

On April 30, the government activated draconian measures under the Biosecurity Act. Not only did it issue a blanket travel ban on India until at least May 15, it stated that any citizens stranded there would face criminal prosecution if they sought to enter Australia. The government explicitly threatened fines as high as \$66,000 or five years' imprisonment for those who violate its edict.

The government, with the Labor opposition's support, has effectively blocked tens of thousands of Australians from returning throughout the pandemic, with stringent international arrival caps and a pittance of assistance to people at the mercy of profiteering airline companies. But the India ban is the first time the right of return has been openly criminalised.

The measure epitomises the criminally-negligent and profit-driven response of the ruling elite to the pandemic. The entire political establishment has refused to develop an effective quarantine program, instead sending almost all international arrivals to private hotels to isolate. The hotels, which do not have protections against airborne transmission and are not medical facilities, have been the source of some 17 COVID-19 outbreaks in the community over the past six months.

Rather than address the quarantine shambles, the government has decided to gamble with the lives of some 9,000 citizens in India, at least 650 of whom are deemed to be at a high-risk of succumbing to the coronavirus. Under conditions in which India is now registering more than 400,000 confirmed infections a day and over 4,000 deaths, and its hospital system has been completely overwhelmed, the ban could amount to a death sentence.

Victims of the policy have spoken out. Numbers of them have travelled to India over recent months to aid elderly and vulnerable relatives. In comments to the *Guardian*, Subra Somayajula explained that he had gone to India earlier this year

to care for his mother, who had been stricken with stage-4 breast cancer, and has recently tested positive for COVID. Somayajula has been her primary carer as "she is bed-ridden and requiring constant care."

Somayajula said that with the government ban, "I feel rejected and betrayed, that my contribution to the community, my life and Australian citizenship isn't worth much. This uncertainty caused by the Australian government's decision is worsening anxiety and contributing to poor mental health, not just for me but for those I am close to."

Somayajula and others have also noted that the ban places them in a potential limbo. India does not allow for dual nationality, so those who have emigrated to Australia and become citizens there have had to renounce their Indian citizenship. If they are in India, they do not have the minimal rights associated with citizenship, including potentially to healthcare, and they have now also been deprived of their due as Australian citizens.

Civil liberties organisations have condemned the ban as a breach of fundamental human rights. The office of the United Nations High Commissioner on Human Rights has warned that the blockade could breach international law, including article 12 of the International Covenant on Civil and Political Rights, which decrees that "no one shall be arbitrarily deprived of the right to enter his own country."

The office noted that it has repeatedly "emphasised the narrow authority to refuse nationals' return, and considers that there are few, if any, circumstances in which deprivation of the right to enter one's own country could be reasonable."

Gary Newman, a 73-year-old Australian citizen in the Indian city of Bangalore, has filed a legal challenge, due to be heard in Australia's Federal Court on Monday.

The case will argue that the government's invocation of sweeping powers under the Biosecurity Act was not "proportionate" or "appropriate and adapted to achieve the purpose" as required under law. The challenge will also assert that the blockade is unconstitutional, in that it violates an implied right of citizens to return to Australia, and that there is "no head of power, nor any implied source of power"

authorised to institute such a ban in the constitution.

The government has doubled down, with senior ministers, including Health Minister Greg Hunt, who issued the order, insisting that it is legal. They are seeking to take advantage of the anti-democratic character of the Constitution, which does not contain any bill of rights or explicitly recognise a range of civil liberties, from press freedom and freedom of speech, to those associated with citizenship.

At the same time, the government has cynically claimed that it did not intend to threaten prosecution when it issued the ban last week. Prime Minister Scott Morrison told the media that “likelihood of anything like that occurring is pretty much zero.” As numerous commentators have noted, if that were the case there would have been no reason for the government to invoke the extraordinary powers. And whatever the government’s spin, if people do seek to circumvent the ban, they are at the mercy of federal authorities who could impose criminal charges.

The government’s evasions are aimed at dampening down the anger that the blockade has provoked. Australia has a large Indian population, numbering over 600,000 and Indian community organisations have issued strong statements opposing the measure and pointing to its discriminatory character.

But the opposition has extended far more broadly. The ban has repeatedly trended on Twitter, where hundreds of thousands have condemned its callousness, and pointed to its broader implications for the democratic rights of ordinary people and the very institution of citizenship. Media commentators, including some who have supported the Morrison government, have felt compelled to condemn the measure because of its brutal character. Government backbenchers have reportedly also warned Morrison of the backlash the ban is provoking.

The response is deepening a crisis of the Morrison government. Having been falsely hailed as “stable” and “effective” by much of the corporate media last year, it has been mired in a succession of shambles over recent months, including over the handling of sexual misconduct scandals and the glacial pace of the country’s vaccine rollout, which is among the slowest of advanced capitalist countries.

While walking back some of the tough rhetoric that accompanied the announcement of the ban, the government is continuing to signal that it will do virtually nothing for citizens stranded in India. Ministers have stated they “fully expect” the ban to be lifted on May 15, but have only outlined plans for one repatriation flight, which would only carry a handful of those wishing to return. They will have to test negative before boarding, meaning that those infected by the potentially-deadly virus will be left to their fate in India’s dysfunctional health system.

The government has resisted calls for an overhaul of the quarantine system, as it has throughout the pandemic. Instead it appears that returnees from India will be sent to the existing

Howard Springs facility in the Northern Territory, which had already announced an upgrade in capacity from 800 in quarantine at a time to 2,000.

Federal authorities state that the “safe level” of infections at Howard Springs, as well as the hotel quarantines, is two percent of returnees. This is an admission that the quarantines are failing their central purpose.

Outbreaks in virtually all of the major cities over the past six months have been traced back to the private hotels, which, in addition to their inadequate infrastructure, are staffed by low-paid, predominantly casual workers who are frequently compelled to work multiple jobs.

In the latest case, two infections have been detected in Sydney this week. The husband and wife who have tested positive have not travelled abroad, but the man had been to an optometrist located in the same building as a hotel quarantine and genomic sequencing has linked his case to that of an American traveller there.

Even though New South Wales authorities do not know how the virus “leaked” and have said that there are probably people in the community infected with the Indian “double mutant” variant, the state government has only reinstated a mandate for mask-wearing on public transport and indoor areas. There is no lockdown and the borders remain open. Even this cosmetic response has been condemned by sections of business, who have insisted that all safety measures must be lifted to boost corporate profit.

The federal Labor Party opposition has cynically condemned the Morrison government for its failure to develop effective quarantines. But Labor and its leader Anthony Albanese have functioned as a “constructive” opposition throughout the crisis, including by passing the majority of the government’s budget last October, which provided a bonanza for big business and the rich and a pittance for health.

State administrations, the majority of them Labor-led, have joined the Morrison government in an extra-constitutional national cabinet, which has frequently ruled by decree throughout the pandemic. State Labor governments have directly overseen the shambolic hotel system.

The quarantine crisis and the Indian ban refute claims that Australia has escaped the pandemic. They demonstrate that the ruling elite is committed to the same brutal policies that have resulted in mass illness and death worldwide, based on subordinating the safety and the lives of working people to corporate profit-interests.



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