

Australia's Biosecurity Act: An unprecedented handover of power

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Australian ex-Prime Minister Scott Morrison's recently-revealed secret appointments by the governor-general to five crucial ministries as the COVID-19 disaster deepened, began with his assumption of the vast emergency powers of the health minister under the 2015 Biosecurity Act.

According to the self-serving and absurd account that Morrison gave to the authors of *Plagued*, a Murdoch media book, he and Health Minister Greg Hunt agreed to share the health ministry because they discovered the "enormous implications of these far-reaching powers."

Reportedly, in March 2020 they realised that the legislation was "up there with the divine right of kings," potentially giving Hunt "control of the country."

Covertly, behind the backs of the population, they arranged for Governor-General David Hurley, a former military chief, to appoint Morrison as health minister so he could personally exercise the powers.

Four days later, on March 18, 2020, Hurley declared a "human biosecurity emergency," activating the powers. This was not just a power grab by the Liberal-National prime minister. The governor-general, attorney-general, senior cabinet and legal officials, and the cabinet's National Security Committee, which includes military and intelligence chiefs, were all involved.

So were the Labor Party leaders. Virtually simultaneously, the state and territory governments, mostly from Labor, invoked their own emergency laws, also containing draconian powers. These measures were coordinated via the equally secretive, non-constitutional body that all but replaced parliament from March 2020, the "National Cabinet"—a de facto coalition regime.

Despite the pretence that Morrison and Hunt were surprised by the sweeping biosecurity emergency powers, they had voted for them in 2015, as did the entire parliamentary establishment—including Labor and the Greens.

The Act permits the governor-general, on the "advice" of the health minister, to declare a "human biosecurity emergency" and explicitly bars parliament from overturning that declaration.

This is an unprecedented handover by parliament of potentially dictatorial powers to a minister, free of any political or legal challenge. The health minister simply has to advise the governor-general, the Queen's representative, that a disease is threatening to cause harm to human health on a "nationally significant scale." That seizure of power cannot be "disallowed," that is halted, by parliament.

No advice by the country's health officials is necessary. The health minister only has to be "satisfied" that such a threat exists.

The parliament also handed the governor-general the power, on the minister's advice, to make unlimited three-month extensions of

emergency declarations, free from any parliamentary rejection as well. This was a power which the governor-general utilised some eight times in two years.

Once an emergency is declared, the health minister assumes dictatorial powers, including to order "any requirement" or issue "any direction" to any person, "despite any provision of any other Australian law."

In other words, parliament gave the government, via the health minister, the power to effectively override any other law, including those maintaining formal limits on police and military powers, such as arrest and detention.

This creates the conditions for potentially lawless authoritarian rule. Again, parliament agreed that it could not disallow any of these "requirements" and "directions."

"Directions" do not even have to be in writing, so there is no publicly available record of them. That makes it impossible to tell what directions have been issued and by which of the two health ministers who held that power in 2020–22—Morrison and Hunt.

These powers are designed for use against working-class opposition. They can allow almost unlimited repressive measures, including the deployment of the military to enforce orders, round up people and suppress unrest. Anyone who disobeys a "requirement" or "direction" can face up to five years' imprisonment or a fine of \$66,000. No defences exist to such criminal charges.

The "human biosecurity emergency," which lasted from March 2020 to April 2022, was not declared to protect people from COVID-19 infections. On the contrary, the government's preoccupation, shared by the ruling class as a whole, was with blocking as much as possible the growing demands of health experts, teachers and other workers, for safety restrictions and shutdowns, including of schools.

The greatest anxiety in ruling circles was the eruption of mass unrest as the pandemic spiralled out of control, health systems buckled and workers were thrown out of work. As Morrison stated last month, in defiantly justifying his secret ministerial appointments, they faced "the prospect of civil disruption, extensive fatalities and economic collapse" in "the nation's biggest crisis outside of wartime."

Those same fears drove the complicity of the state and territory government leaders. On March 13, 2020, a day before Morrison took over the powers of the federal health minister, they joined his government in forming the extra-parliamentary "National Cabinet," to prevent as much as possible any public health restrictions that would affect business profits.

While this cabal operated through federal and state emergency powers, the federal and state parliaments were shut down for much of

2020, generally meeting only for as long as needed to rubberstamp huge business bailout packages.

By barring parliamentary “disallowance” over emergency declarations, and giving a minister the power to disregard every other law, the Biosecurity Act provisions are unprecedented in Australia. They go beyond even the powers imposed during world wars. Throughout World War II, the 1939 National Security Act gave the federal government similar powers to issue sweeping regulations, which were used for censorship, conscription, internment and mass arrests of socialists and other opponents of the war. Even so, parliament retained the power to disallow such regulations.

Two weeks after Morrison took control of the health minister’s powers, he went further down this road, assisted by the governor-general and backed by his cabinet’s National Security Committee. He was covertly appointed as finance minister, giving him the direct power over government spending and massive business bailouts. Just over a year later, he was granted power over treasury, industry and home affairs, covering the federal police and intelligence network.

The Biosecurity Act sets a broader precedent for authoritarian forms of rule in response to political crises produced by working-class resistance and discontent. Support for that certainly exists in the Australian ruling class.

In 2016, retail billionaire, Harvey Norman CEO Gerry Harvey suggested the formation of a dictatorship in order to end the “constant turmoil” since 2007, when Liberal-National Prime Minister John Howard lost office, and to impose anti-working class economic “reform” measures.

Political cover-up

When the Biosecurity Act was passed in 2015, the public was kept in the dark. In effect, there was a conspiracy to cover up its autocratic potential. The parliamentary establishment, assisted by the corporate media, falsely depicted the legislation as a mere update of the 1908 Quarantine Act in order to protect agricultural industries. In moving the bill, Barnaby Joyce, the then agriculture minister, made no mention of the emergency powers, only referring obliquely to “human health provisions,” which he claimed would be “seldom used.”

All three main parties of the political establishment supported the passage of the legislation. Labor not only voted for it but claimed the political credit. Senator Doug Cameron told the Senate that Labor was proud of having first introduced the “essentially identical” bill in 2012, under the Gillard Labor government.

The Greens took the political logic further, unsuccessfully moving amendments to extend the bill’s “special powers” to declarations of “environmental biosecurity emergencies.”

For more than two years, the Biosecurity Act powers were invoked officially for a range of purposes, including to shut the country’s borders or exclude people from designated countries. In April–May 2021, they were used to deny thousands of Australian citizens the fundamental right to return home from infection- and death-plagued India during the catastrophic Delta variant wave.

How much further the powers were informally used, or threatened, remains unclear. For months during 2020 and 2021, relying on a combination of federal and state emergency measures, police and military personnel selectively targeted working-class areas, patrolling

streets, manning checkpoints and knocking on residents’ doors, supposedly to enforce stay-at-home orders.

These operations sought to accustom public opinion to such military-police methods, and to rehearse and train the police and troops for wider repressive use in working-class neighbourhoods.

By contrast, wealthier areas were spared such police-state conditions, while sweeping exemptions were granted to employers to ensure that they could force workers back into workplaces, including schools, mining projects and construction sites, all with the support of the trade unions.

While border closures and lockdown measures became necessary to contain the pandemic, they were imposed and enforced arbitrarily and inconsistently—singling out working-class suburbs while exceptions were made constantly in favour of big business and affluent areas—and implemented via the “National Cabinet” without any democratic scrutiny or input.

If Morrison’s government did not resort to fully exercising its Biosecurity Act powers that is because it also relied on the Labor and union leaders to suppress working-class resistance to returning to unsafe work sites and impose widespread cuts to jobs, wages and working conditions.

Acutely aware of the public hostility to what the revelations about Morrison’s secret appointments have laid bare about the anti-democratic workings of the capitalist state apparatus, the current Labor government is trying to bury the issue, which has been referred to a closed-door inquiry by an ex-High Court judge.

Labor’s pivotal role in the drafting of the Biosecurity Act and its bipartisan support for its activation must be a warning, however. The Labor government will be just as ready to resort to authoritarian measures as opposition emerges to its pro-business agenda of continuing to let COVID-19 rip, imposing the inflationary spiral and real wage cuts and accelerating preparations for frontline involvement in a US-led war against China.

Labor’s agenda is backed and policed by the unions, none of which have opposed the adoption and implementation of the Biosecurity Act emergency laws.

As these conditions intensify, the resort to emergency powers signals an increasingly authoritarian reaction by the ruling class as a whole to boost the powers of the capitalist state to deal with rising political discontent and acclimatise public opinion to martial law conditions.

This record shows that there is no constituency in the corporate elite and its political servants for the defence of basic democratic rights. The only social force that can defeat the lurch toward dictatorial forms of rule is the working class. That requires a political break from Labor and the unions, the formation of rank-and-file defence and action committees in workplaces and communities and the development of the fight for a genuinely democratic workers’ government to totally reorganise society along socialist lines, on the basis of social and human need, not corporate profit.



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