

Australian government rams through bill to impose unprecedented restrictions on released detainees

Mike Head

17 November 2023

In just over 12 hours on Thursday, the Australian Labor government teamed up with the Liberal-National Coalition opposition to push through both houses of parliament a bill that inflicts a police-state regime—essentially a new totalitarian form of detention—on people being released, by order of the country’s highest court, after being previously imprisoned indefinitely.

The bill was also supported by One Nation leader Pauline Hanson, Tasmanian independent Jacqui Lambie, all the “teal” independent members of parliament and Australian Capital Territory independent David Pocock, before being rushed to the governor-general for royal assent.

Thursday’s events expose the true repressive face of parliamentary democracy. The ruling establishment, currently led by the Labor Party, is ripping aside fundamental democratic rights, flouting even the extremely limited protections of basic legal rights in Australia’s 1901 Constitution.

These events underscore a reactionary political atmosphere being drummed up by the ruling parties and media, full of inflammatory allegations against supposed “illegal immigrants,” under conditions in which all the politicians involved are also backing Israel’s murderous assault on the people of Gaza in blatant defiance of international law.

Under the unprecedented legislation, the previous detainees—mostly refugees who cannot be deported—will be forced to wear ankle bracelet monitoring devices “at all times” and are effectively confined to house arrest, potentially for life. They face the threat of imprisonment for up to five years, with a mandatory minimum of one year, for breaching any of the far-reaching restrictions placed on them.

These restrictions, more than a dozen, include confinement to set locations with 10 p.m. to 6 a.m. curfews, limits on travel, and exclusion from designated forms of employment. Those released must report constantly to the police or other authorities, including on their living arrangements, finances, memberships of organisations and associations with other people.

All these controls can be imposed or varied by executive fiat, by the immigration minister, without “natural justice.” That is,

there is no right to a prior hearing, let alone a procedurally fair or unbiased hearing. The minister can simply decide that a person “poses a risk to the community.”

This is after people were detained indefinitely and unlawfully in immigration facilities for years, in one case almost 13 years.

As government ministers admitted in parliament, the bill’s provisions could very well violate the High Court’s November 8 ruling that indefinite detention of asylum seekers and other non-citizens—a regime first introduced by the Keating Labor government in 1992—constituted “punishment” without judicial process.

Agriculture Minister Murray Watt told the Senate there was a “degree of constitutional risk” in the emergency changes.

After enforcing unlawful detentions for decades, the judges on November 8 said they breached the Constitution’s separation of powers doctrine, but have yet to issue reasons for the court’s apparent partial about-face.

The High Court decision has so far resulted in the release of 84 people, with the legality of the detention of a further 340 people in detention for more than a year also in doubt.

Lawyers for some of the released detainees have mooted a legal challenge to the new law, saying it imposes new forms of punishment without trial. David Manne, the executive director of Refugee Legal, said the bill was tantamount to imposing “a further form of deprivation of liberty, a further form of indefinite detention, because there are also no time limits on these conditions.”

For now, the bill’s measures apply only to non-citizens—imposed via conditions on temporary visas. But they set chilling precedents for wider use against anyone accused of conduct or views deemed an unacceptable threat to “national security” or the underlying economic order of capitalism. This is occurring amid threats by governments to ban protests against the Gaza genocide, falsely accusing participants of antisemitism or “hate speech.”

Despite all being blackguarded by politicians and media headlines as “murderers” and “rapists,” only some of the released detainees had been convicted of crimes. These included several serious offences, while others were locked up

for traffic offences. But all had served their sentences. Had they been citizens, they would have been released, either on parole or unconditionally.

A large proportion of the detainees—78 reportedly—are owed refugee protection and cannot be removed from the country without defying the International Refugee Convention. At least 30 of them were detained indefinitely on various accusations, ranging from endangering “national security” to belonging to bikie groups, giving incorrect information in visa applications, changes in circumstances, or posing risks to “the health, safety or good order” of Australia.

Media commentators and the Greens, who opposed the Migration Amendment (Bridging Visa Conditions) Bill 2023, described the parliamentary rush as a “capitulation” by the Labor government to the aggressive refugee-bashing demands of the Coalition, spearheaded by opposition leader Peter Dutton.

In parliament, however, Home Affairs Minister Clare O’Neil boasted that the bill was harsher than anything introduced by Dutton when he was home affairs minister in the previous Morrison Coalition government.

“The Leader of the Opposition loves to present himself as a tough guy on borders,” O’Neil said. “He never wrote laws as tough as this... These laws allow us to do things that no government has ever been able to do before: to put ankle-monitoring bracelets on people we are concerned about... What’s really important about this bill is that for the first time we criminalise people who do not follow these visa conditions.”

O’Neil declared that she agreed with Dutton that “some of the people at the heart of this decision have committed deplorable crimes; disgusting crimes—crimes that no-one in this parliament, surely, would accept. That is why we kept them in detention.”

These kinds of allegations were quickly inflamed by the corporate media, notably on talkback radio, tabloid newspapers and breakfast television.

Prime Minister Anthony Albanese was equally determined to assert Labor’s “tough” credentials. He claimed personal credit for the bill, saying he was “fully involved” in the proceedings from San Francisco, where he flew on Wednesday to attend the Asia-Pacific Economic Cooperation (APEC) summit hosted by US President Joe Biden.

By demolishing what is left of the Labor government’s claims to defend civil liberties, the bill’s rapid passage has caused political shock and unrest. Laura Tingle, the chief political correspondent of the Australian Broadcasting Corporation’s “7.30” current affairs program, said it was a “dark day” for “the way we make laws in Australia.”

She wrote: “In the space of 12 hours on Thursday, the Australian Parliament passed legislation about what remains, to the public, a largely ill-defined and unknown group of people—but variously described by some of our MPs as

‘hardened criminals’ and ‘absolute animals’—in a legislative exercise alarming in its chaos and deeply concerning in its origins.”

In reality, the proceedings exposed the real character of parliament and the ruling class.

For their part, the Greens accused the government of endangering the “rule of law” by rushing through legislation that would end up back in the High Court. “The government has acted in haste, panicked at the fearmongering of Peter Dutton,” Greens Senator Sarah Hanson-Young said.

That is a cover for the reactionary role and record of Labor, with whom the Greens are hoping to form a coalition government after the scheduled 2025 federal election because of collapsing popular support for the government.

In 2005, moreover, the Greens joined the Howard Coalition government and the Labor Party in the most notorious previous instance of ramming laws through parliament on an “emergency” basis. That legislation vastly expanded the already sweeping “counter-terrorism” laws by enabling people to be arrested, charged and convicted for allegedly planning unspecified “terrorist acts.”

The 2005 legislation, adopted under the banner of the “war on terror” that served as the pretext for the catastrophic US-led invasions of Afghanistan and Iraq, also introduced new forms of detention without trial, including for citizens, such as “control orders” and “preventative detention.”

The Coalition is calling for such types of detention to be imposed on the released detainees, and the Labor government has foreshadowed further legislation that may do so.

As the WSWs warned after the November 8 High Court ruling, the detention powers target non-citizens but set dangerous precedents. They pose a broader threat to core democratic rights, particularly as opposition grows to the ruling-class agenda of war and austerity, fuelled by the cost-of-living crisis, the multi-billion-dollar AUKUS military pact and full support for the Israeli genocide in Gaza.



To contact the WSWs and the Socialist Equality Party visit:

wsws.org/contact