Australia: “Prohibited hate group” laws recall 1951 referendum to ban “communism”

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Laws were rushed through the Australian parliament by the Albanese Labor government last month to allow the minister in charge of the Australian Federal Police to designate and outlaw so-called “hate groups” by decree and potentially have their supporters jailed. This is an historic attack on basic democratic rights.

Such sweeping executive powers to ban political groups have not been attempted in Australia since a 1951 constitutional referendum that rejected similar measures proposed by the Liberal-Country Party government of Prime Minister Robert Menzies to dissolve the Communist Party of Australia (CPA) and criminalise anyone the government branded a “communist.”

On the pretext of responding to the terrorist shootings at Sydney’s Bondi Beach, Labor’s legislation allows a minister to “prohibit” political groups or parties, simply on the basis of being “satisfied” that they support vaguely-defined “hate crimes” or even “may do so” in the future. This means organisations can be banned solely for what ideas or political views they are alleged to uphold. That amounts to a thought crime. Once a party or group is outlawed, anyone convicted of being a member or supporter faces up to 15 years’ imprisonment.

By conflating anti-genocide statements with antisemitic hatred, the legislation seeks to criminalise opposition to the ongoing mass killing of Palestinians by the US-backed Israeli regime and the Labor government’s complicity in it. But the legislation goes further. It can also apply to any expression of dissent that allegedly makes members of any group defined by race, ethnicity or nationality feel threatened by fear of suffering harm of any sort, including to their mental health.

Changing what needs to be changed, these provisions echo those of the Menzies government. Its 1950 Communist Party Dissolution Act authorised the Governor-General to declare anyone a “communist,” if “satisfied” that they were “likely to engage, in activities prejudicial to the security and defence of the Commonwealth or to the execution or maintenance of the Constitution or of the laws of the Commonwealth.”

In other words, the term “communist” was defined so widely that it could include trade unionists or anyone, even a Labor Party member, “likely” to oppose the government. That also meant people could be criminalised solely on the basis of their alleged political views. Once declared a “communist” they could not be employed in the federal public sector or any industry deemed by the government to be vital to the country’s “security.” They could be barred from standing in trade union elections, and unions could also be dissolved.

Behind the 1951 referendum

The Communist Party Dissolution Act was part of the Cold War being waged internationally by US imperialism and its allies against the so-called Soviet bloc—the Stalinist regime in the Soviet Union, the Eastern European buffer states and the Maoist regime that emerged in China after the 1949 Chinese Revolution. The Menzies government’s attempt to outlaw the Stalinist CPA had its counterpart in the McCarthyite witch hunt in the US, where anyone regarded as a “communist” or “communist sympathiser” was subjected to blacklisting and possible criminal prosecution.

Having initially aligned with Nazi Germany under the notorious 1939 Hitler-Stalin Pact, the Soviet Stalinist regime shifted its allegiance to the Allies—the so-called democratic imperialist powers, primarily the US and Britain—after the Nazi invasion of the Soviet Union in 1941.

In the immediate aftermath of World War II, the capitalist classes confronted a resurgent working class internationally and revolts against colonial rule in country after country. The betrayals of Stalinism were instrumental in the re-stabilisation of world capitalism through the subordination of the working class to “democratic” capitalist governments.

Having shored up capitalism in Western Europe and Japan, US imperialism and its allies went on the counteroffensive, launching what became known as the Cold War to “contain communism.” While targeting the Stalinist regimes, falsely identified as “communist,” the Cold War was directed above all against the working class at home and the oppressed masses in Asia, Africa and Latin America.

The CPA in Australia was originally founded in 1920 as part of the worldwide working-class response to the October 1917 Russian Revolution and the founding of the Third International in 1919. By the end of the 1920s, however, the CPA had been transformed into an appendage of the Soviet Stalinist bureaucracy. The reactionary Stalinist perspective of “Socialism in One Country” rejected the basic principles of Marxism and the program of world socialist revolution. The Third International was transformed into a vehicle for the opportunist manoeuvring and betrayals of the Stalinist bureaucracy on the world stage as it sought to buttress its position against the Soviet working class at home.

The CPA aligned itself with all the twists and turns of the Stalinist bureaucracy. It supported the Moscow frame-up trials of 1936-38 and the murderous purges in which hundreds of thousands of Communists, intellectuals and workers were executed, including the surviving leaders of the 1917 revolution. Above all, these crimes were directed at exterminating the Left Opposition led by Leon Trotsky.

The CPA supported Stalin’s pact with Hitler in 1939 and was banned in the first phase of World War II, refusing to support the war being waged by Britain against Germany. However, it abruptly changed sides after the Nazi invasion of the Soviet Union—in line with Stalin’s new policy. The Curtin Labor government formally lifted the prohibition of the CPA in December 1942, in return for “satisfactory undertakings guaranteeing assistance in war production and in preventing stoppages.”

Under that pact with the Labor government, the CPA ruthlessly

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suppressed workers' strikes, denounced strikers as "traitors" and shut down workplace committees, demanding sacrifices "all for production." A courageous and principled fight against this suppression, the elimination of workers' basic conditions and constant speedups of production was waged by the Trotskyists led by Nick Origlass, an ironworkers' delegate at Sydney's Mort's Dock, whom the Stalinists slandered as "fascists" and "Quislings."

The onset of the Cold War

As was the case internationally, major strike struggles erupted with the end of World War II as workers sought to reverse the deprivations of the 1930s Great Depression and the wartime sacrifices, by demanding better wages, shorter hours and improved conditions.

These struggles included 1946-49 Pilbara Pastoral Workers Strike—the longest strike in Australian history—the nine-week 1948 Queensland Railway Strike, the 1945-49 "Black Armada" refusal by waterside workers to load Dutch ships in support of Indonesian independence, and the 1949 seven-week strike by 23,000 coal miners, which paralysed sections of the economy.

The Chifley Labor government, as it sought to suppress industrial unrest, rapidly turned on the CPA which retained a significant presence among layers of militant workers, despite its wartime role of industrial policeman. The Labor government broke the coal strike by deploying the military in the mines, jailing union officials and sequestering union funds.

Labor fully aligned itself with the anti-communist offensive of the Cold War. It prosecuted and jailed several CPA leaders for sedition, for either saying they would support Soviet troops in a war or for opposing anti-strike powers and orders by the government's Arbitration Court. During the miners' strike, the Labor government sent police to raid and seize documents from CPA offices, blaming it for the strike.

Labor also established the domestic surveillance agency, later named the Australian Security Intelligence Organisation (ASIO), in September 1949 to satisfy US and UK demands for a crackdown on alleged Soviet spy operations in Australia.

On the back of Labor's own anti-communist witch-hunting and repression, the Coalition won the 1949 election. In his election policy speech, Menzies had vowed to eradicate communism, declaring it was no longer a "legitimate political philosophy." This was because, he declared, communists were "the most unscrupulous opponents of religion, of civilised government, of law and order, of national security."

But the Menzies government was confronting continuing industrial unrest. About two million strike days were lost in 1950, in a population of just over 8 million. The passage of the Communist Party Dissolution Act, which was supported by the opposition Labor Party, amid the whipping up of anti-Communist hysteria, targeted the CPA but was, above all, aimed at suppressing strike activity.

As became clear to workers during the battle against Menzies' legislation and the subsequent referendum, the laws were not directed solely against the CPA. The legislation created a police-state framework for jailing workers, instituting employment blacklists, and taking control of or destroying trade unions.

As soon as the dissolution act was passed in 1950, police raided CPA offices across the country, seizing documents and assets. According to the first volume of ASIO's official history, *The Spy Catchers*, they seized "more than half a ton" of documents and drafted plans to detain nearly 1,000 CPA members. Some CPA leaders left the country to evade arrest.

However, in March 1951 the High Court, the country's supreme court, ruled six to one that the dissolution legislation was unconstitutional. The majority of judges rejected the government's claim that the Act came within the "defence" power of the 1901 Constitution.

The judges ruled that the government could not invoke wartime powers, such as those used to outlaw parties, including the CPA and the Trotskyist organisations, during World War II. They ruled that Australia was officially still at peace, despite sending troops to the Korean War that erupted in 1950 as US imperialism launched a massive military intervention to prop up the hated US puppet—the dictator Syngman Rhee—in South Korea.

In a bid to overturn the High Court ruling, Menzies' government called a referendum for September 1951 to insert a clause into the constitution to validate the dissolution act and empower the making of any other laws whatsoever to "deal with communists and communism."

The referendum's defeat

At first, support for the anti-democratic referendum appeared overwhelming. Newspaper editorials were vehemently in favour of the ban. Seven weeks before the ballot, it was supported by 73.3 percent of respondents, according to a Morgan Gallup Poll.

But that support fell away sharply as the dictatorial character of the power to ban political parties and effectively outlaw their supporters became more widely recognised, especially among workers.

To head off the brewing opposition among workers, the Labor Party decided, by a split 7 to 4 vote on its national executive, to campaign for a No vote, reversing its support for the passage of the dissolution bill through the Senate the previous year.

Most media and academic accounts of the referendum campaign attribute the government's defeat to a vigorous "No" campaign conducted by Labor leader Doc Evatt, but that is a distortion of the reality.

The official parliamentary No campaign mounted by the Labor leadership was itself anti-communist, denouncing communism and saying that laws already existed to ban it. It explicitly stated that "Labor is utterly opposed to Communism" and claimed that Labor had already taken "the only effective action to combat Communism in Australia." It declared: "Labor's record is one of prompt action in prosecuting every Communist who had infringed the law of the land."

Labor argued that criminal acts, sabotage, or treason carried out by "communists" could be prosecuted under existing laws, making the broad ban proposed by the government unnecessary. In fact, the official No statement declared: "Mr. Menzies has not acted. He has talked. The Commonwealth Crimes Act contains provisions for the Courts to declare any subversive body an illegal organisation and dissolve it."

The CPA was not part of the official No campaign but ran a parallel one, in which it promoted Labor Party speakers and praised Evatt, as part of a "united front" that also included civil liberties and some religious organisations. In the CPA newspaper *Tribune*, CPA general secretary Lance Sharkey appealed to "democrats and peace lovers" to defend "the freedom of our country."

The defeat was primarily driven by workers' reaction upon becoming aware of the referendum's wider net. Workers realised that the "declaration" power, which allowed the government to declare someone a "communist" without proof or trial, could be used to target militant workers. "Vote NO!" committees were established at workplaces, within trade unions, community groups and Labor branches.

One of the most active committees was formed at Mort's Dock, chaired by the leading Trotskyist Nick Origlass. After years of denouncing the Trotskyists as "fascist rats," *Tribune* announced on its front page on August 1 that Origlass was the chairman of the dockyard's "Vote No"

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Committee. The article said the committee "has embarked on an intensive course of action, including preparation and distribution of Vote NO propaganda, conduct of a Dock Referendum on the issue, organisation of meetings and speakers and a call on Dock workers for full financial support."

The growing opposition among workers was also reflected in universities, where students joined debates and meetings at which speakers warned against the dangers of handing dictatorial powers to the government. At the University of Melbourne, for example, approximately 500 students at a Student Representative Council meeting on September 14 voted by eight to one to oppose a "Yes" vote because it "would endanger the democratic rights of the Australian people."

A week before the September 22 vote, Morgan Gallup Poll announced that "a million electors have switched from 'Yes' to 'No'." Ultimately, the referendum was narrowly lost. The "No" vote won 50.56 percent of the national tally and a majority in the three most industrialised states, New South Wales, Victoria and South Australia.

The voting returns showed that workers turned out in large numbers to defeat the referendum. That resulted in a registered voter turnout of 95.58 percent, which was exceptionally high, even given that voting was legally compulsory. While working-class electorates did not necessarily have a higher turnout than other areas, they provided the critical results. Early returns from working-class centres showed a decisive "No" lead, while later-counted rural votes trended toward "Yes."

Despite the referendum's defeat, the ongoing anti-Communist witch-hunt of the Menzies government with Labor's support had an impact on the working class. Strike activity dropped as other measures were used to crack down on CPA members and militant workers. The number of strike days in 1951 plunged to around 900,000 down from two million in the previous year.

Following the defeat, no further government attempt was made to ban political groups or parties until 2001, when the "war on terrorism" was launched on the pretext of responding to the 9/11 terrorist attacks in the US. In Australia, as in the US and Britain, this "war" became a vehicle for the eruption of US-led militarism, starting with the invasions of Afghanistan and Iraq, and for a barrage of domestic police-state measures.

Alongside unprecedented ASIO, police and government powers, such as to detain people, without charge for prolonged questioning, Liberal-National Coalition governments, backed by Labor, imposed laws to proscribe organisations designated by ministerial decree as "terrorist" or supporters or advocates of terrorism.

The Albanese government's legislation now significantly expands these powers, which also have been broadened via "foreign interference" laws. This is part of an intensifying attack on core democratic rights, under conditions of the Gaza genocide, US-driven war preparations, deepening social inequality, climate change disasters and Labor's collaboration with the Trump regime.

The 1951 referendum showed the true dictatorial character of the ruling capitalist class in Australia. It was brought forward at the beginning of the post-World War II period that eventually, after the stifling of mass workers' struggles, saw an economic and political stabilisation under US global hegemony.

Today, that post-war order is being torn apart globally and in Australia, fuelling immense inter-imperialist conflicts and domestic class tensions. Labor's laws to ban "hate groups" is a warning of the readiness of the political establishment to again resort to authoritarian forms of rule to suppress social unrest and political discontent.

More than ever, the defence of fundamental democratic rights depends on the fight for socialism to overturn the entire repressive capitalist state apparatus.

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