

Coronavirus Pandemic

Statement by Civil Liberties Australia April 2020

The coronavirus pandemic represents a very serious situation. Civil Liberties Australia (CLA) recognises that responding to this pandemic requires equally serious measures.

However, the impact of those measures on the human rights and liberties of Australians must be in accordance with the law and must be no more than what is required to respond to the emergency.

With that in mind, CLA calls for federal and state and territory governments to ensure the following:

Extraordinary measures must be time-limited

In responding to the pandemic, federal, state and territory governments have taken on sweeping and far-reaching emergency powers with few limitations or controls. Such powers may be necessary to deal with the immediate crisis, but they must immediately be wound back in full once the crisis has passed.

Australia has a bad record of adopting powers in times of crisis but then allowing those powers to become “the new normal” (anti-terrorism powers are the prime example).

Parliamentary scrutiny of governments must continue

At a time when governments are exercising extraordinary powers with far-reaching impacts on the lives of every Australian, parliamentary scrutiny of government actions is more important than ever.

It is very concerning that sittings of parliament at both the federal and state levels have been suspended for many months in 2020 and that parliamentary rules prevent virtual sittings by telephone or videoconference.

It is essential that federal and state parliaments maintain their scrutiny of Executive government actions through the work of relevant parliamentary committees and that ministers be responsive to questions from these committees.

At the conclusion of the current crisis, amendments to the rules must be passed to allow greater flexibility for parliaments to continue their work in times of crisis.

The actions of authorities must be upfront and transparent

Measures taken by health, border control, biosecurity, police and other agencies must be absolutely transparent. Any surveillance or monitoring measures to control the movements of people must be made public, must be in accordance with the law, must be justified, must be subject to strict oversight, and must be repealed as soon as the crisis is over.

Any information gathered in the course of implementing these controls must be subject to strict privacy rules.

Punitive measures must be mindful of the most vulnerable

Where governments adopt punitive measures to enforce social distancing and other requirements, they must be mindful of the needs of vulnerable sections of the population who find it difficult to comply with such measures, such as people experiencing homelessness and victims of domestic abuse.

Australia has a sad record of fines and other punitive measures disproportionately falling on the homeless, Indigenous people, victims of abuse, and people suffering from psychological conditions.

Prison populations must be minimised

Prisons and other places of detention are a serious challenge to social distancing measures and therefore represent a threat to the health of both the prison population and to the wider community. State and territory governments must adopt measures as a priority to minimise prison populations and reduce crowding in these facilities. Such measures could include early release, home detention, and release on bail of the remand population where possible.

We call on state and territory governments to report on the measures they are adopting towards this end and the effect of those measures on prison populations.

Numbers in immigration detention must be minimised

For the same reason, the numbers of people in immigration detention need to be minimised. We call on the federal government to report on measures they are adopting towards this end and the effect of those measures on the number of people in immigration detention and the ability of the remaining population in immigration detention to observe social distancing.

We also call on governments to issue regular reports on the mental/social health of those detained under 'quarantine' conditions, and remind governments of their responsibilities towards people in quarantine detention, and in jails, under the Optional Protocol to the Convention on Torture (OPCAT).

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