

VLAD is not a joke

Queensland Parliament passed the VLAD and two related Bills in a single session on the 15th October. Perhaps the full name of the legislation, the *Vicious Lawless Associates Disestablishment Act*, was decided after the acronym. The other two were the Tattoo Parlours Bill and the Criminal Law (Criminal Organisations Disruption) Amendment Bill. All are directed at bikies.

Indeed, it is 'war against the bikies'; Premier Newman said to Parliament, *'these are the toughest laws against these thugs this state has ever seen. Indeed, they are amongst the toughest in the world...They are designed to destroy them'*. More cynical people might say that have there is a complex need among some Queenslanders to have things that are the biggest in the world.

Most certainly VLAD and the associated matters are far from a joke and are part of a long and disturbing history of executive government power in Queensland. The ALP under Ned Hanlon [acted](#) against the Railways Union in 1948, the National Party Government under Bjelke-Petersen stopped street marches in the 1960s and 1970s and [declared](#) a state of emergency against Aboriginal groups at the 1982 Brisbane Commonwealth Games.

The VLAD package prescribes 26 bikie gangs as "criminal organisations". It is an offence with a minimum six months imprisonment for three or more 'participants' in these organisations to meet in a 'public place'. It is an offence for any participant to enter a place prescribed under the Act or to take part in a prescribed event. 41 places, including club houses, gyms and tattoo parlours, have been prescribed. In all cases 'participant' is given the widest possible meaning. Police will not need warrants to stop, detain and search people they suspect of being 'lawless associates'; the onus of proof in bail applications is also reversed.

The VLAD Act has a list of 'declared offences' - including assembly, affray, carnal knowledge, burglary, grievous bodily harm and other violence, drug possession and trafficking, weapons offences. These are already in the criminal code and other legislation. A member of a bikie gang (known as a *vicious lawless associate*) convicted of one of the declared offences will get an additional mandatory sentence of 15 years. There is a further 10 years if the person is an office bearer. No parole is possible for the mandatory sentences. The only reduction is if the police commissioner (not the court) is satisfied that person cooperating in evidence against others.

The Government has decreed that bikies will be held in a new facility within the Woodford Jail. They will be isolated from other prisoners, subject to close surveillance and searching, allowed out of their cells for only one hour per day and without access to television, phones or gyms and with only limited visiting time. The Premier has said *'we will create a unique prison experience for criminal motorcycle gang members who are convicted in the courts'*. Further, the Police Minister has asked Corrective Services to investigate dressing the convicted bikies, a la Arizona, in pink jumpsuits. In a further escalation, the Queensland Police Union is calling for semi-automatic assault rifles and body armour for officers and the Police Minister has indicated support for these.

Terry O'Gorman Australian Council for Civil Liberties president says they are the most extreme laws introduced in Queensland's Parliament, eclipsing some of those passed during the era of Sir Joh Bjelke-Petersen. Nicholas Cowdery former NSW Public Prosecutor [says](#) *'there is serious interference with freedom of association, freedom of expression, the right to work, family relationships,'* Moreover, *'people are penalised, potentially criminally, not for what they've done but for who they associate with.'*

Terry Goldsworthy, a former police officer and now Assistant Professor at Bond University, [says](#) that despite Queensland Police only nominating 14 clubs as existing in Queensland, the legislation lists

26. He says that the laws do not match the scale of the crime threat and that '*much of the crime committed by outlaw motorcycle gangs fails to satisfy the definition of [organised crime activity](#) as put forward by the [Australian Crime Commission Act](#).*'

None of this seems to disturb Attorney-General Jarrod Bleijie. Two days after VLAD, he gave himself power to direct that sex offenders are kept in prison after the completion of their sentence even if a Court has decided they could be released. This clearly conflicts with the constitutional separation of powers between executive and judiciary. But, there is even less public sympathy for sex offenders than for bikies. However, the ALP Opposition of seven members, while, small as it is, voted against giving the executive such judicial power. On the other hand, it voted for the legislation against bikies.

In my opinion the ALP should have voted against both. The VLAD act in Queensland reduces freedom of association. It applies to who people are rather than what they have done. The legislation is directed at bikies but permits the declaration of other criminal organisations by regulation - that is by the executive government.

The Fitzgerald Report on 1988 and the Goss ALP Government in the early 1990s made some important changes but there no legal framework of rights in Queensland. Proposals did not find favour with either Labor or the Nationals and were rejected by a Parliamentary Committee in 1998. The main reason given for rejection was an excessive transfer of power from an elected Parliament to an unelected judiciary. Somehow the question of the power of the executive was forgotten.

It is timely to readdress this especially as Parliament seems so willing to give judicial and legislative powers to the Executive. In 1998, Justice Fitzgerald remarked on the failure to adopt a Bill of Rights in Queensland and [said](#) '*There is absolutely no reason for this State to maintain a redneck reputation or why it cannot give a lead to the rest of Australia in the constitutional entrenchment of individual rights.*' The failure to give a lead is now coming back to haunt progressive politics.

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