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Media Statement

Protected attributes in jeopardy with prospective new police powers

The Anti-Discrimination Commissioner finds the proposed Police Administration Legislation Amendment Bill 2024 (the Bill) an affront to the rule of law as it promotes arbitrary use of power and has the effect of suspending the Anti-Discrimination Act 1992 (ADA). This has the potential of unintended consequences to vulnerable and disadvantaged persons or groups protected under the ADA.

The Bill authorises the Police Commissioner to make a public disorder declaration if there is a believe a riot or civil disturbance is occurring or there is an imminent risk of it occurring, and provides powers to prevent, stop or reduce the public disorder. Under this Bill, public disorder declarations can be for up to 72 hours and can be extended by the Minister for a further 7 days.

Despite the Bill directly impacting the ADA, the Anti-Discrimination Commission (ADC) has not been consulted.

The Bill proposes to specifically curtail the application of the ADA, meaning that the Police Commissioner will not need to consider, nor be bound, by the ADA when making a public disorder declaration or acting under that declaration. This has the very real possibility of profiling and targeting groups or people that the ADA is explicitly designed to protect.

The NT Government's intent to suspend the ADA is novel, as it is unlikely that other jurisdictions disrupt the rule of law on protections against discrimination when exercising emergency powers in response to public disorder.

The ADA offers protection to Territorians from being discriminated against because of protected attributes in certain areas of activity. The ADA already provides exemptions

where prohibited conduct is done in accordance with, or is authorised by, legislation. However, implementation of authorised conduct still needs to occur in a non-discriminatory way.

It is our view that “serious risk to public safety” required by the Bill is a low threshold to exercise such discretion which impedes on people’s freedom of movement, particularly considering the vague and limited safeguards proposed. The Police Commissioner is required to prepare a report to the Northern Territory Ombudsman providing details on the declaration, however, only after the fact and within 3 months of the expiry of the declaration. There is no provision for consultation with, or oversight from, the Ombudsman, or any other safeguarding body, prior to invoking the power.

The power which will be permitted under this Bill is not in line with the spirit of the positive duty to eliminate discrimination to the greatest extent possible. As stated in our media release of 28 March 2024 in response to the Alice Springs curfew, it is a reactive response, which has serious implications for vulnerable people and groups in the Territory. The ADC echoes the comments of the Children’s Commissioner that these laws need to be balanced and proportionate and that the NT Government must consult key stakeholders including legal aid services, peak bodies and relevant oversight bodies.



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