



Statement of Concern

3rd April, 2020

Unique protest squashed by police due to COVID restrictions

Melbourne Activist Legal Support (MALS) expresses concern regarding the dampening of political speech and peaceful association in police threats to fine protesters

A unique cavalcade protest that had planned to abide by social distancing restrictions has been banned by local police. Preston police threatened the organisers with a possible \$20,000 fine if the cavalcade went ahead.

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On Saturday 4 April the Melbourne based Refugee Action Collective (RAC) planned to host a cavalcade of cars to slowly circumnavigate the Mantra Hotel in Preston where several asylum seekers have been held since the 25 July 2019¹.

This event was directly linked to the health of detainees in the Mantra Hotel, who face the increased risk of coronavirus infection because of their detention conditions.² The protest follows the news that a guard at a similar alternative place of immigration detention tested positive for COVID-19.³

In accordance with the Stage 3 public health restrictions made by the Victorian government, protest organisers instructed participants to have no more than 2 people per car and for those 2 people to be of the same household. Participants were instructed not get out of the car if others were around and not to attend if sick, or in close contact with a sick person.

Participants were also instructed to not to cover number plates with signage and to obey all road rules.

According to protest organisers: *“Our protest would be safer than going shopping, safer than travelling on public transport, safer than non-essential work that continues, and safer by an order of magnitude than being stuck in a sealed corridor in the Mantra.”*

When organisers were contacted by Preston police they were told that the proposed protest was illegal and that individual participants faced fines of \$1652 for every person who took part. The organising group was threatened with a fine of “maybe \$20,000”.

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¹ <https://www.theage.com.au/politics/federal/medevac-asylum-seekers-detained-in-a-melbourne-hotel-for-months-20191217-p53kmh.html>

² The Australasian Society for Infectious Diseases and the Australian College of Infection Prevention and Control recommended releasing immigration detainees (currently held in hotels and detention centres across the country) into the community. The shared dining rooms, bedrooms and bathrooms and the notorious handling of detainees by security mean that Covid will spread through detention centres quickly.

³ <https://www.sbs.com.au/news/guard-working-at-brisbane-hotel-housing-refugees-and-asylum-seekers-tests-positive-for-covid-19>

MALS recognises that efforts to protect public health in the face of the coronavirus pandemic may demand temporary restrictions to some individual freedoms. However, the United Nations has directed that authorities must ensure any restrictions to rights and freedoms during the pandemic are “proportionate, necessary and non-discriminatory.”⁴

Because of this, MALS is concerned that a protest adapted to government public health restrictions could still be quashed by police. This raises concerns regarding protesters’ rights to free expression and peaceful association, as recognised in the Victorian Charter, and their implied right to political communication under the Commonwealth Constitution. MALS also notes the lack of institutional oversight to the powers police officers have been given in enforcing the Stay at Home directions.

MALS emphasises that activist groups have been proactive in efforts to ‘flatten the curve’ since the onset of the pandemic. Numerous large protest events were voluntarily cancelled or postponed in response to public health directions days earlier than corporate, private or government entities in order to reduce the risk of virus transmission.⁵ Similarly, grassroots mutual aid networks, organised largely by social movement activists, have been at the forefront of community education, support for our health system and responses to prevent transmissions. Human Rights Watch has called upon governments to not exploit the coronavirus pandemic to criminalise or obstruct the work of civil society organisations.⁶

MALS asserts that compassion and human solidarity needs to be at the centre of our response to this pandemic. These values are enacted by social movement initiatives such as this protest and as such should be respected as a vital responses to this unprecedented crisis.

MALS expresses concern that police response to this protest:

- Goes beyond the spirit of the Deputy’s Chief’s Health Officer Stay at Home directions which explicitly allows travel for both work and volunteering tasks;
- Fails to recognise the accommodative and safely organised nature of the event;
- Fails to recognise the compassionate nature of the event – which is designed to draw attention to a potential health crisis currently being ignored by public authorities; and
- Represents a dangerous, disproportionate and ultimately unnecessary limitation of civil and political rights.⁷

MALS urges Victoria Police and all authorities to ensure that:

⁴ COVID-19: States should not abuse emergency measures to suppress human rights – UN experts <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722&LangID=E>

⁵ Melbourne based activities groups began cancelling rallies and public events from 13 March 2020 - the Save Public Housing Rally cancelled on March 13 and Extinction Rebellion Vic cancelled its March Against Murdoch on the same day - both prior to the Prime Minister’s announcement that gatherings of more than 500 people would be banned from the following Monday. ¶

⁶ Human Rights Dimensions of COVID-19 Response, Human Rights Watch 19 March 2020. https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response#_Toc35446587

⁷ Human rights law also recognises that in the context of serious public health threats and public emergencies threatening the life of the nation, restrictions on some rights can be justified when they have a legal basis, are strictly necessary, based on scientific evidence and neither arbitrary nor discriminatory in application, of limited duration, respectful of human dignity, subject to review, and proportionate to achieve the objective.

1. Safely organised public events such as this are seen as 'volunteer' work as described in Clause 8 of the Stay at Home directions and therefore are permitted;
2. Local police work in good faith with this and other event organisers to ensure proper social distancing measures are undertaken;
3. Police attending any such activities also observe appropriate social distancing and protective measures.

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This Statement of Concern is a public document and is provided to media, Victoria Police Professional Standards Command (PSC), Independent Broad-based Anti-corruption Commission (IBAC), the Victorian Equal Opportunity and Human Rights Commission (VEOHRC), Government ministers, Members of Parliament and other agencies upon request.

A downloadable copy of this Statement is available [here \(PDF\)](#).

For inquiries regarding this statement please contact: media@melbactivistlegal.org.au

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About Melbourne Activist Legal Support

Melbourne Activist Legal Support (MALS) is an independent volunteer group of lawyers, human rights advocates and, law students and para-legals. MALS trains and fields Legal Observer Teams at protest events, monitors and reports on public order policing, provides training and advice to activist groups on legal support structures and develops and distributes legal resources for protest movements. MALS works in conjunction with law firms, community legal centres and a range of local, national and international human rights agencies. We stand up for civil & political rights.