

I am very pleased to make this submission regarding the *Police Offences Amendment (Workplace Protection) Bill 2022*, acting in a personal capacity as private citizen.

The Bill is Malign

If Sauron the Dark Lord of Mordor was a legislator rather than the bane of Middle-Earth, this is the type of legislation that he would write.

Indeed, the Liberal government, in attempting to re-enact this legislation after two failed attempts previously, appears to be doing a good job of recreating Tolkien's vision of a new darkness arising to replace the old. As dramatic as this might seem, the underlying threat to the right to protest peacefully, and with it freedom of speech, is imperilled under this legislation, and this continued aggression against deeply held democratic principles should alarm everyone.

The right to protest has, at various times, involved the use of measures to compel, even passively, attention. At different moments, these measures have raised issues to public attention, often in a manner that would not have occurred at all otherwise.

Where protest has become constrained or restricted, it has a tendency to lose traction and the ability to appeal to a wider audience beyond any localisation. While this might be to the benefit of some (usually those being protested against), it undermines the confidence that freedom of speech is not simply a right to be tolerated, but to be celebrated and promoted.

This legislation behaves as though peaceful protestors represent a significant threat to social and economic cohesion, as though the mere act of inhibiting a road space or a tree, could prove threatening to the financial prospects of any corporate endeavour. Remembering that the type of corporate endeavour is the issue at hand, not endeavour as an abstract.

In other words, protests are directed against specific acts judged to be harmful by a significant number of activists, to such an extent that they feel compelled to act. By doing so peacefully, protestors are acknowledging the importance of restraint, while also taking a subtle dig at the idea that violence or force is a primary means of provoking action. How often has it been that peaceful protestors, bearing no harm or concern other than to be a temporary but vocal nuisance, have been met with violence response on behalf of the state? By the very nature of impelling police action, this positions the State Government as an agent provocateur.

The Bill is Double-Speak

Adding an offence of "unreasonably obstruct the use of any street" leaves a great deal of interpretation as to what is reasonable, and what is not. Unreasonable might be the imposition of industrial practices placing the environment at risk, and with it the implication of endangering human safety and biodiversity. In a democracy where freedom of speech is desired to be protected, what might be considered unreasonable to such a degree that it must be legally prohibited?

We might consider hate speech, for example, to be of such damaging concern that we legally curtail its' use. We have laws over libel and slander, to protect individuals from false allegations. In undertaking these legal amendments, the Tasmanian Government is effectively – and erroneously and unjustly - equating peaceful protest with hate speech.

Of course, the proposed bill does not mention 'protest' or 'protestors' explicitly. Yet, implicitly protests and protestors are the target of the legislation. It is disingenuous, at best, for the legislation

to be so poorly directed, and at worst deliberately deceptive. Codification of language is the double-speak of conservatism.

Unreasonable is usually taken, somewhat self referentially, to mean something that no reasonable person would consider or do, as the case may be. The Macquarie Dictionary provides various definitions, including 'not guided by reason or good sense' and 'not based on...' 'reason or sound judgement'. How then does the government propose to weight the reasonable actions of environmental vandalism, versus the supposedly unreasonable demands of protestors for this destruction to stop?

In amending Section 14B of the Principal Act, there is reference to taking an action that "caused, directly or *indirectly*, a serious risk to the safety of the person or another person". There is no meaningful legal definition for the phrase. Furthermore, when one considers the implication of environmental damage (including climate change and carbon emissions), it would be interesting to note how the law makes no protection for common citizenry for these effects, but in actively attempting to mitigate these impacts the law apparently springs into life.

It is easy to see why so many young people and children go on strike; they see the contradiction clearer than many adults.

The bill, if passed, would create uncertainty as to the scope and reach of the law. The combined effect of increased penalties and uncertain laws is a poor outcome for freedom of expression and participatory democracy because it risks frightening people into silence.

There is clear intent of differentiation between which parts of the community can protest (presumably those that do so on the side of the road and without attaching themselves to things), and those that cannot. However, the manner and wording of the bill lacks cohesion in terms of defining *how* the police might implement this law. The government might know what it means by these terms, but without clarity it cannot possibly be evident to police officers how to interpret them.

Given recent events, such as the revelations that forestry activities in lutruwita/Tasmania are essentially illegal, it would appear that far from being a prohibitive measure against illegal activity, this bill seeks to promote potential illegal activity, while undermining an inherent value of protest.

Conclusion

I recommend that the 2022 Bill not be passed, on the basis that it represents an unnecessary and burdensome imposition on the right to protest and freedom of speech, and imposes significant constraints on the ability of the police to make sensible decisions.