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RESISTING HOWARD'S INDUSTRIAL RELATIONS 'REFORMS': AN ASSESSMENT OF ACTU STRATEGY

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'We are facing the fight of our lives. The trade union movement will be judged on how effectively we meet this challenge'
(AMWU National Secretary, Doug Cameron, May 2005).

Howard's planned industrial relations (IR) legislation confronts Australian unions with their worst nightmare. This is obviously the case for rank and file members who face a savage attack on their conditions, but the legislation is also terrifying for the union bureaucracy. Since Federation, Australian capitalism has operated on the basis of mediating class conflict at the workplace through arbitration and conciliation. This did not mean that class conflict was absent, or that the arbitration system was not itself a weapon in this conflict, only that at the base of any such conflict was a recognition by employers and the state of the legitimacy of the union bureaucracy in the industrial relations process. With its *WorkChoices* legislation, the Howard government has signalled an onslaught on this entire system and, with it, the central role of union officials in the system of structured class relationships.

The purpose of this article is to provide a critical assessment of the strategy drawn up by the ACTU to resist *WorkChoices*. Although there are differences of emphasis within their ranks, the ACTU executive and office bearers have pursued a strategy with five main components. First, to convince employers that they are wrong to break from the system that has served them well for a century. Second, to lobby the ALP at state and federal levels. Third, to lobby government politicians and those of the

minor parties. Fourth, to raise community awareness of the issues at stake. And, finally, to mobilise the rank and file membership of the unions. In what follows I explain briefly each of these components before analysing their effectiveness as a strategy to defeat the Government's industrial offensive.

ACTU strategy

(i) Appeal to Business

The ACTU approach to business was spelled out by ACTU Secretary Greg Combet in a speech to the National Press Club on 6 July 2005. The problem with the Howard agenda, Combet argued, is that it is a 'radical', 'reckless', 'irresponsible' and 'biased' plan that will not address 'the real economic priorities facing Australia'. Productivity needs to be boosted, Combet explained, but the IR system is not the problem. Indeed, the current IR system is delivering all that business needs. The real problem for business is inadequate investment in infrastructure, skills, and research and development, resulting in 'slow growth in high value exports, under-performance in the generation of highly skilled jobs, and sluggish productivity in the tradeable goods sector' (Combet, 2005). The ACTU Secretary contrasted what was needed with the 'ideological' approach of the Howard government:

Simply put, Australia needs an investment-led reform agenda focussed on the supply side of the economy. That is what will produce the next productivity revolution. Instead, John Howard is offering the realisation of a long-held IR prejudice. His is a backward-looking agenda to cut labour costs, to find our economic way in the world by preying on the weak and vulnerable, by attacking fairness and democratic principles (Combet, 2005).

The notion that Howard's plan was simply the product of an outdated and counterproductive ideology was a repeated refrain of both the union bureaucracy and the ALP during the course of the campaign. The unions, in concert with a future ALP government, offered Australian capitalism

the prospects of a fresh surge of productivity that the Howard government could promise but not deliver. The ACTU leadership used the experience of the Accord years in the 1980s as evidence that its strategy was superior to that of the Coalition. ACTU President Sharan Burrow explained in response to the suggestion by an interviewer that unions were holding back productivity:

Oh look, you know, we were the architects – with the employers I might say – in a more conciliatory and consensual environment led by a Labor government, of the skilling environment, the multiskilling environment, that actually, drove productivity.... We're actually absolutely committed to growing the economy and growing productivity, but let's do it on the basis of skill, of economic growth through increased industry investment, through infrastructure development, through new industries (interview, ABC radio, *PM* show, 30 June 2005).

The task for employers, together with the unions and ALP, was to defeat the right-wing ideologues who had seized control of the government agenda (Combet, 2005). The problem was that: '[Workplace Relations Minister] Andrews has been listening too much to the urgers in big business like the Business Council's Hugh Morgan, and right wing legal crusaders at Freehills'. 'Small and medium size businesses', however, Combet continued, 'are not interested in the ideological preoccupations of big business lobbyists. They want certainty about their legal rights and obligations' (Combet, 2005). And it was the ACTU and ALP that could offer them this certainty.

(ii) Lobbying the ALP

The second component of union strategy was to look to the ALP at state and federal levels for support. At state level, labour councils maintained pressure on state Labor governments to take legal action in the High Court to prevent the federal takeover of the state system of arbitration.

At federal level, the ACTU leadership urged the ALP parliamentary caucus to take a stand against the legislation and, within the ranks of the unions, campaigned for a return to Labor in federal office in 2007. Thus,

Labor leaders were to be found on the platform of most large rallies during the course of 2005 and were promoted as the union movement's great hope for ultimately defanging the legislation. The ACTU consistently sought to highlight Labor's opposition to the *WorkChoices* legislation, putting it in the most positive light. Thus, during his Press Club speech in July, Combet urged full support for the party's leader:

You can see already that the stance that Kim Beazley has taken in relation to these changes is not only a solid one and a strong one and a committed one and one driven by values, one driven by a commitment to fairness, but it's also a stance that I think will put Labor in good stead politically (Combet, 2005).

The problem for the ACTU, however, was that Labor too was seeking to keep business happy. And, unlike the union bureaucracy, its future did not necessarily rest on sustaining union organisation. Thus, following the defeat of Latham in the aftermath of the 2004 federal election, the party leadership under Beazley dropped its pledge to abolish AWAs, promising to support them if they did not undercut award conditions (Lewis, 2005).

(iii) Lobbying Members of the Government and Minor Parties

The third element of ACTU strategy was to urge members 'to contact John Howard and Liberal and National party members to tell them not to use their power in the Senate after 1 July in ways that may benefit big business but hurt the majority of working families' (ACTU, 2005). Liberal and National members were urged by Sharan Burrow 'not to toady to John Howard but to stand in defence of their workers in their constituencies if they want to be re-elected' (interview, ABC radio, *PM Show*, 30 June 2005). The ACTU campaign, Greg Combet argued in his Press Club speech, was 'designed to make the government think again'. Buttressing the appeal to the consciences and political survival instincts of Liberal and National politicians was a more focused lobbying effort concentrated on National Party Senator Barnaby Joyce and Family First Senator Steven Fielding who were deemed by the ACTU leaders to be most likely to switch votes on the legislation.

(iv) Build Support in the Wider Community

Perhaps the most notable initiative in building support for the union campaign in the wider community was the launch of a series of very effective television advertisements in May. Run over several weeks on all the main channels, these advertisements significantly raised the awareness of the wider community, both union and non-union, to the threat posed by *WorkChoices* and contributed to the major mobilisations that occurred later in the year (below). The advertisements were not, however, the only tactic used in community outreach. Organisers and officials in many state branches leafleted football matches and other community functions and events. Union barbeques and touch football matches were organised in parks and public spaces. Banners were hung off union buildings in areas of high public exposure, and dozens of media events were staged.

(v) Mobilisation of Members

In terms of mobilising members in industrial action, the immediate response by the ACTU to the Howard government's re-election was to avoid a fight. Following an emergency meeting of the ACTU executive on 18 October 2004, President Sharan Burrow declared that 'At this point in time, we don't have any plans to actually respond to the prime minister's agenda with industrial activity'. In place of such plans was a commitment to 'connecting to the community' and encouraging stronger groups of unionists to 'firewall' their conditions by negotiating three-year enterprise agreements (Norington, 2004; Skulley, 2004). On 23 November, Combet again had nothing to say about any industrial action at a meeting of union delegates in Melbourne. A similar lack of any plans for action was forthcoming from the leaders of the NSW and Victorian labour councils over the summer.

In February and March 2005, the situation began to turn around. Meetings of delegates from the CFMEU (construction union) (23 February), Victorian Trades Hall Council (VTHC) (24 February), the AMWU (manufacturing workers union) (16 March), and the National Union of Workers (18 March) passed resolutions demanding action. On

23 March, a VTHC meeting of 1,500-2,000 delegates voted to support a national day of protest with street marches, and called on interstate labour councils to follow their lead (Davis and Norington, 2005).

On 12 April, the executive of Unions WA met to consider a proposal for a mass rally in May 'leading to a carefully planned Statewide program of industrial action to stop work across WA' (Jerrard, Drummond and MacDonald, 2005). On the following day, the AMWU National Council voted in favour of a national stoppage and protest on 30 June. On 4 May, 1,000 workers and supporters attended a rally in Adelaide organised by the CFMEU and AMWU (Richmond, 2005). On the same day 5,000 building workers walked off the job in Melbourne (Bull, 2005). On 19 May, the Queensland Council of Unions came out for a state day of protest on 30 June. On 1 June, the National Tertiary Education Union also held a national protest against associated plans by the Higher Education Minister to make further university funding conditional on the offering of AWAs in the university system. Of all the major labour councils, Unions NSW was the slowest to move, but mass meetings of delegates were eventually convened in Sydney and Parramatta on 27 May.

All of these steps occurred without any ACTU endorsement. On 6 April, the ACTU National Campaigns Committee announced that it would run a national week of action from 27 June to July 3. However, no call was put out by the ACTU for a united day of action involving industrial action or protest marches. It was left to the local labour councils and individual unions to organise for such events.

Despite ACTU inaction, the national week of action and, in particular, the mass rallies on 30 June and 1 July, were a major success. The march of 120,000 in Melbourne on 30 June was the largest action, but 20,000 rallied in both Brisbane and Perth, 10,000 in Geelong, 5,000 in Adelaide, and 3,000 in Hobart. In NSW, 80,000 attended meetings across the state on 1 July, led by 10,000 at the Sydney Town Hall on 1 July, followed by a march of 20,000. A further 6,000 marched in Wollongong. Many thousands attended protest events outside the major cities. All up, something like 270,000 took some form of action on these two days, many of whom were breaking the law by stopping work to attend.

The result of this mobilisation was immediate and profound. Unions were inundated with new members in June and July. The NSW Nurses Association signed up 1,000 new members, and the NSW branch of the Australian Services Union 273. The ACTU call centre reported a 400 per cent increase in phone calls, and there was a 100 per cent increase in inquiries at the Victorian branch of the National Union of Workers (*The Age*, Good Weekend magazine, 20 August 2005). The mobilisation also impacted on the broader political landscape. In the days following the rallies, Coalition support, on a two party preferred basis, fell from 51 per cent to 46 per cent in AC Nielsen polling.

The demonstrations and rallies on 30 June/ 1 July were not just an expression of opposition to the current round of attacks but drew from years of hostility to successive waves of government 'reforms'. The fact that so many workers took part also gives an indication of the underlying resilience of the union movement despite years of decline. It also indicates how much more could be achieved if the ACTU mobilised to win.

Most importantly, the success of 30 June/ 1 July gave heart to union activists everywhere and emboldened the bureaucracy, leading after a short delay to the calling of a national day of action four months later, on 15 November. Serious union resources were devoted to building this day of action, with the result that attendances were higher than on 30 June/ 1 July. In total, more than half a million unionists and supporters took part, with 250,000 protesting in Melbourne alone, 50,000 in Sydney, 40,000 in Adelaide, 30,000 in Perth, 25,000 in Brisbane, and 6,000 in Hobart. Outside the rallies in the capital cities, hundreds of rallies and meetings were held in towns across all regions and in every state.

Analysis of the ACTU Campaign

Despite the impressive mass mobilisations, there are a series of shortcomings with the ACTU strategy to defeat *WorkChoices*. First, there is no indication that employers are susceptible to the union bureaucracy's arguments that it can be a reliable partner in the task of managing Australian capitalism. Indeed, every major employer group has publicly

sided with the Howard government's attacks. The reason why they hold fast is not because they have been duped into subscribing to an antediluvian and counterproductive ideology but because late capitalism demands a continued offensive against the Australian working class.

The Australian economy is now entering its 14th year of growth, the longest sustained period of economic expansion for many decades. However, underlying problems in Australia's recent run of economic success still remain (Bramble, 2004). The Australian capitalist class is therefore enjoying its record profits, but the long-term tendency to stagnation in the Western economies is never far from its thoughts. Big business in Australia lacks the confidence in the economic system that its predecessors exhibited in the 1950s and 1960s. This is why Qantas, Telstra, GMH and the Commonwealth Bank continue to cut staff even while making large profits. Business is driven onwards, knowing that it cannot slacken the pace - 'Accumulate, accumulate, that is Moses and the prophets', as Marx wrote in *Capital*. Such accumulation means continuing attacks on the working class. The Howard government is committed to accelerating the process started by the Hawke Labor government in the mid-1980s, with the Prime Minister claiming that 'the job of economic reform is never finished' (Norington, 2005a). In this, the government is firmly supported by the Reserve Bank (Norington, 2005b) and by the International Monetary Fund and the World Bank which regard Australia as a showcase for neoliberalism (International Monetary Fund, 2005: 18; World Bank, 2005).

In this neoliberal scheme, there is no place for trade unionism and, short of a return to vigorous industrial campaigning by the unions, no place for trade union leaders. In their quest to boost corporate profits and reassert employer prerogatives, the employers have been joined by the Prime Minister and successive workplace relations ministers, most obviously on the waterfront and in construction, but also in the public sector, where, for example, department heads and university vice chancellors have been given riding instructions to squeeze the unions out.

Australia's union leaders are faced with the stark reality that they need the employers, but the employers only need them if they have something to offer, specifically the ability to deliver a stable and disciplined working class. The lack of any fighting leadership from the ACTU since

the early 1980s has given the capitalist class the opportunity to win labour discipline by coercive means – legislative attacks, individual contracts, the creation of a large peripheral labour force, the fear of unemployment – and employers now sense that they can use the opportunity to marginalise trade union leaders. Thus, while not denying that the personal antipathy of the Prime Minister and senior ministers towards trade unionism is a factor underlying *WorkChoices*, the material factors are far more significant – the competitive challenge demands it and the consistent failure of the union leaders to resist the employer offensive makes it feasible in a way that was not the case during the heyday of the ‘New Right’ in the mid-1980s (Plowman, 1987; Sheldon and Thornthwaite, 1999).

Furthermore, the union leaders’ analysis of the economic situation is based upon a false counter-position – the ‘low-road’ approach of wage cuts and union-busting as against the ‘high-road’ approach of infrastructure investment, R&D and skill development. Australia’s employers are quite capable of arriving at high productivity returns by means of coercion. Taken together, these factors explain the immunity of business leaders to the entreaties of the union leaders that they can be joint partners in a productivity revolution.

The universal support of business leaders for the Howard legislation also explains the futility of appeals to conservative politicians from the Prime Minister down. Despite the slide in polling for the government in July through November, and despite some minor tinkering with the legislation following pressure from some Coalition parliamentarians, the Prime Minister is pressing ahead with *WorkChoices* with the enthusiastic support of most of his colleagues. He had no alternative, for to have rejected it, in the absence of a massive union industrial campaign threatening the profits of big business, would have represented a politically unsustainable back-down by the government and the revival of concerns in employer circles that the government had lost its ‘reform appetite’.

Similar problems are evident with the appeals to the ALP at state and federal level. Over the past decade, the High Court has been re-made in Howard’s image and now has a solid conservative majority. It is unlikely, therefore, that the High Court will rule against the legislation to

any significant degree. Regardless of this tactical assessment, however, there is the issue of the commitment that the state Labor leaders have for a difficult fight. The Victorian Premier promised at the 15 November rally in Melbourne that his Government would fight the new laws 'every step of the way' and yet has taken no steps in his six years in office to reinstitute the Victorian system of industrial awards that was abolished in 1996 by the Kennett Government. His colleague in South Australia, Mike Rann, promised at the Adelaide rally to 'stand alongside the trade union movement in fighting this legislation' but on the previous day had written to the Federal Treasurer urging the Commonwealth Government to publish a scorecard 'demonstrating to the world, and to business, where governments need to lift their game in the charge to get rid of red tape' (Richardson, 2005), barely disguised code for further economic deregulation. A High Court challenge will probably eventuate, but it is likely to drag on with little useful effect for workers.

Very little hope can be placed in federal Labor either. Industrial relations has become a major positive factor in Labor's opinion polling through 2005 and this has given the Federal opposition an incentive to ride this issue through to the next election. Whereas Mark Latham barely even mentioned the word 'union' in his year as Opposition leader, federal Labor has now made a major turn towards the language of class. In October, Kim Beazley announced that Labor would 'rip up' the *WorkChoices* legislation when it took power and would put in place 'a fair system of conciliation and arbitration' whose basic structure, however, was not elaborated upon.

Nonetheless, despite these commitments, the Labor leader is hamstrung by his simultaneous desire to appeal to employers as a viable alternative to the Coalition in the matter of economic reform (Uren, 2005). Federal Labor's shift to the right during the course of 2005 on uranium mining, civil liberties and the 'War on Terror', voluntary student unionism, tax cuts for high income earners, and land rights in Northern Territory, is indicative of the general trajectory of Labor policy. Even in the area of industrial relations, the promise to 'rip up' *WorkChoices* has left silent Labor's continuing commitment to AWAs, an inconsistency which reflects the dual pressures operating on the ALP. If the GST experience at the 2001 federal campaign is any guide, it is possible that earlier

promises to 'roll back' Coalition legislation will themselves be rolled back in due course, particularly in the event that business launches a fierce campaign against the threat of repeal of *WorkChoices* in the course of an election campaign.

The success of building support and raising awareness in the community about the damage done by *WorkChoices* has already been noted. In two separate opinion polls in July and September, more than 60 per cent of those surveyed opposed the legislation. But, ultimately, the question remains: with what purpose and to what effect? Awareness and support have to be harnessed to a specific strategy to give them any force. And the ACTU strategy in this respect is ultimately one of electoralism – vote Labor in 2007. 'Winning support in the community' is simply code for this strategy and thus is subject to all of the problems outlined above.

Ultimately, the only thing that can save the union bureaucracy, and indeed working class conditions, is a union campaign of mass industrial action. The problem is that the most powerful weapon in the workers' hands, the strike, occupies at best a marginal role in the ACTU campaign. As is the case with social democracy more generally, union leaders face the problem that the methods that can actually defeat an aggressive attack on their position are also those that threaten their position from another direction. Union leaders have to mobilise union members by outlining the threat that the legislation poses to their conditions but also to convince business that they have a strategy that can secure continuing profitability for Australian capitalism. A strategy to actively frustrate the passage of the legislation and, subsequently, to make it inoperable, would be one based on mass industrial action of the type that defeated the penal powers of 1969. While such a mass campaign certainly cannot be ruled out in 2006, it clearly runs against attempts by the union bureaucracy to convince employers of its *bona fides* as a negotiating partner, as well as representing a major break with the entire character of union strategy since the early 1980s. The sensitivity of the union leaders in this respect is indicated by the apology to 'good employers' issued by the ACTU president, Sharan Burrow, for any disruption associated with the 15 November rallies (Anon, 2005).

As with the case of the ALP, the rhetoric of the union leaders shifted to the left in the latter half of 2005, with the ACTU Secretary indicating in

November that he would not pay any fine and would be prepared to go to jail in defiance of the legislation. However, this is at best essentially a defensive posture focused on the preparedness of individuals to act on behalf of the union movement, not the kind of collective strike action that is needed, one which would involve taking active steps to shut down key industries to *force* business to retreat.

Would such a strategy of mass action be feasible? Critics of the ACTU strategy have raised the example of Clarrie O'Shea, leader of the Victorian Tramways Union, who was jailed in 1969 for refusing to pay fines. Mass strikes in Victoria, NSW and Queensland resulted in the immediate release of O'Shea and the subsequent repeal of the penal powers by the Coalition government. The leadership response where this argument has been made is essentially defeatist – union membership is much lower than in 1969 and union delegate structures have been weakened, rendering a repeat of this action impossible.

Leaving aside the question of *why* the ACTU has been incapable of reversing union decline over two decades, the argument is not convincing. Indeed, a mass campaign, involving for example, the shutting down of key ports, railways, or the supply of electrical power to industry is more likely to be successful now than in 1969 for several reasons. First, opinion polls reveal widespread awareness of and public opposition to the *WorkChoices* legislation and much greater sympathy for trade unions than was the case in the late 1960s. Second, for this reason, the Howard government is on the defensive. Third, there has been a stream of union mass mobilisations, involving demonstrations and on occasion strikes, in the past decade, most obviously in Victoria and WA. The Melbourne demonstration of 80,000 unionists in support of the Maritime Union in May 1998 was but one example of this. The June and November demonstrations in 2005, the largest national mobilisations of union members and supporters in Australian history, confirm that there is a mass sentiment to act if a lead is given by the leaders of the labour movement.

Years of neglect have left base structures of the union movement in a fragile state. This means that there is no cohered layer of union activists who have a capacity to organise in the absence of an official lead. In that sense only the situation is worse than in 1969. However, what is clearly

better is the preparedness of workers to act when called upon to do so by their union leaders. Given the evident failure of the union leaders to mobilise systematically through the course of 2005, with the more than four month hiatus between the two national days of action and no specific action proposed to follow up on the success of the 15 November mobilisation, the absence of such a cohered layer who could drive the campaign forward is the very obvious negative in the overall political situation facing the Australian working class.

Getting the IR laws up is one thing. Implementing them is another. Australian industrial relations may be heading back to the late 19th century, a time of intense class polarisation. Whether or not this leads to an active fight-back on the part of unions is a further question and depends on the preparedness to fight both amongst the rank and file membership and the leadership. What we have seen in the course of 2005 demonstrates that there is a will amongst workers to fight but also no capacity to organise when the leaders are not prepared to move. Overcoming this impasse and defeating this legislation requires the rebuilding of a genuine left in the Australian workers' movement, one that is not beholden to alliances with business and the parliamentary ALP.

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