



## **A Government Against Its People: Unions Standing up for Respect; Rights and Opportunity**

**ACTU Congress, 24 October 2006**

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A Government against its own people!

Increasingly this is the legacy of the Howard Government.

Punitive welfare to work laws that punish single mothers, the disabled, the sick who are temporarily unable to work or vulnerable workers sacked unfairly.

Shocking but just one set of wrongs in a sea of damage to the Australian ethos of a fair go.

The Government has presided over the emergence of a massive shortage in skills while we have unacceptable levels of youth unemployment.

Rather than provide opportunity and optimism for our young people this Government has systematically put the price of university entrance out of the reach the children of working parents. Now they have put loans for TAFE fees on the agenda. Our children, Australia's children deserve better.

There is silence or lame excuses for the misuse of 457 visas that shame a proudly immigrant nation by allowing our young people to go without work while seeing the sons and daughters of neighbouring countries exploited.

We have seen the Minister insult the professional work of all teachers in our public schools; disgraceful conservative rubbish designed to distract the



nation from the fact that they have under-funded our schools by \$2.9 billion dollars.

Then there is the despair of families over the cost of childcare – with up to one million potential workers outside the labour force at a time when we need to do all we can to encourage labour force participation. Investment in quality care that is affordable, and will reap significant dividends in terms of more workers, increased tax revenue, and early childhood development, but above all it would alleviate real financial stress for families. All it takes is the political will to care for the children of working people.

Australians are willing to pay for a quality health system in which we all can share yet this Government would rather prop up the profits of an inefficient private health insurance industry than make Medicare work for everyone.

Public housing is not even on their priority list despite the levels of homelessness and the extreme financial stress of many families living in poverty. And when more than half of generation X, the children of many of us here, say they have given up on the dream of ever owning their own home then surely affordable housing must rate a higher priority than a political swipe at the State governments.

Infrastructure, industry policy, innovation – all suffering neglect with our exports of high end manufacturing falling into negative territory, a record low of -0.2% in 2005 — down from almost 18% in the mid-nineties. And our Research & Development is less than three quarters (72%) of the OECD average.

The Government's neglect in these areas means the loss of jobs, the loss of decent jobs for our future and an economy that is increasingly dependent just on what we can dig up and sell while we import all the smart stuff.



Fifteen years of solid economic growth has been squandered by the Howard Government.

For this Government too, climate change is a political battle against the global commitment that signing the Kyoto Declaration represents, the Government does not a serious commitment to rescuing the health of the planet. The impact of water shortage and the challenge of safe energy alternatives should see unprecedented cooperation with State and local governments not a battleground for a national takeover of community assets and not the imposition of policy solutions preferred by just a few conservative men and their business mates.

The vision of John Howard's leadership is to impose nuclear energy on our children with no guarantee of safe technology or waste storage with a half life of hundreds of years. We know Australia will say yes to clean energy and no to nuclear risk but this Government is not prepared to listen.

And then there is the Government's IR laws but before we get to the destruction of livelihoods that those laws have and continue to impose on working Australians and their families consider the threat to our fundamental freedoms, indeed the fabric of our democracy:

- The constant attack on the independence of the ABC and now the imposition of the "thought police";
- The continued participation in a war that Australians do not support;
- The abandonment of the right to a fair trial with the denial of the presumption of innocence;
- The contempt for fundamental freedoms represented by the sedition laws and the authoritarian power of the Attorney General;.
- The acceptance of American interrogation procedures and the damage to Australia's long held opposition to all forms of torture;
- The scaremongering on native title;



- The encouragement of fear of difference in a multi-cultural society and the constant attacks on Australian Muslims;
- The determination to gag advocacy with the threat of de-funding civil society organisations and/or the loss of charitable tax free status for those that dare to speak out on behalf of the vulnerable.;
- The abolition of funding of Commonwealth legal centres and the attempt to gag the rest.

The Attorney General recently refused \$25,000 in funding to a recent legal centres conference. Why? Because I was on the program. Petty, arrogant, authoritarian – all of the above. Nevertheless Julie Bishop and her community legal services team would not be intimidated.

Likewise the churches, community groups and individuals who stood up for the rights of asylum seekers and refugees, stood against imprisonment of children and their parents, stood against the pacific solution and stood against the insecurity of Temporary Protection Visas..

When Australians know something is wrong they will stand up and fight.

And fight we will; for freedom, for democracy, for humane public policy that lives up to the test set by Sir William Dean of judging ourselves by the way we treat the most vulnerable amongst us. That is why I support the campaign for a “Human Rights Act” championed by New Matilda; an Act that will set the foundations for a decent Australia.

We know, Australian workers and their families know, that a cornerstone of a decent Australia is the fight to reinstate rights at work.

This morning we have been reminded by working Australians that,



even in the short time since March, John Howard's laws have been found to affect many in our communities; from some of the most vulnerable to active union members.

Many union members are sheltered from the impact of these laws by the thousands of collective agreements that you made sure were certified in the 6 months leading up to the passage of the legislation.

On the Government's own estimates more than 1.6 million workers are covered by union collective agreements made under the federal workplace laws <sup>1</sup>

Many others are protected under State awards and agreements, and State Labor governments are using their powers to ameliorate the impact of the laws on State public sector workers.

But despite this work, there are vulnerable workers with the least bargaining power in the labour market who are most at risk: young workers; workers from culturally and linguistically diverse backgrounds who are unfamiliar with their rights; women (particularly those re-entering the labour market after a period of caring responsibilities); and older workers who may have missed opportunities to re-skill.

We are constantly being accused of running a scare campaign and I have been personally accused by the Government of highlighting instances of personal tragedy but at every community meeting I have attended there are people with stories that break your heart, stories people come to tell about themselves or a family member.

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<sup>1</sup> DEWR, Trends in Federal Enterprise Bargaining, June Quarter 2006 Table 3  
[www.workplace.gov.au/NR/rdonlyres/A8262658-77DE-4BB8-B0A4-F8E5DE422C0B/0/TrendsJ06.pdf](http://www.workplace.gov.au/NR/rdonlyres/A8262658-77DE-4BB8-B0A4-F8E5DE422C0B/0/TrendsJ06.pdf)



In Hobart last week we all shed a tear with the father and sister of Mick Webb. Mick Webb was 45 years old. He had worked for the same employer for nearly twenty years and, after the introduction of the Government laws, was made redundant. He later committed suicide. The Coroner's report confirms the circumstances. A tragic waste of a life that might have been saved if the unfair dismissal laws were still in place. In Mick's case no redress meant no hope.

For that community the determination to fight these laws is even stronger.

Then there are the stories of families struggling on minimum wages or struggling without work. In many electorates up to a quarter (25%) of families are living on less than \$500 a week. And an unacceptable proportion of poor families are those households where someone is in a low wage job.

### **Minimum wages**

As a result of John Howard's laws, the low paid in our country, workers who rely upon the minimum wage, have experienced a 17 month wages freeze.

The government argues that there aren't many people who rely on minimum wages. They say that only one in five workers rely on minimum wages.

Well that means that about 1.2 million minimum wage workers who have previously relied on federal awards are waiting for a wage increase. These workers matter to us.

Who are these low paid workers?.

- Almost a third (31 percent) of women employed in the private sector rely on minimum wages.
- Almost half (48 per cent) of the casual workforce rely on minimum wages.



- One in four (39.9 per cent) elementary clerical, sales and service workers, and over a third (37.0 per cent) of labourers and related workers) rely upon minimum wages.
- Six out of every ten workers in the hospitality industry; cleaners, room attendants, waiters and others rely on minimum wages
- Almost a third of retail employees are award dependent;
- More than one in four workers in the health and community services sector, who look after the most vulnerable members of our community: housing officers working with homeless people, welfare workers assisting people with drug and alcohol dependencies, disability support workers people with severe disabilities, personal care attendants in aged care facilities, childcare workers, youth workers and others rely on minimum wages.

These are our people. John Howard may not care but we do

Each pay period that goes by without an extra \$30.00 or so a week in their pay packet is tough on these workers.

They have to manage rising food, transport and housing costs. The cost of these items, which consume 52 cents in every dollar in low-income households, has been rising faster than the CPI over the past 12 months.

And when the so called Fair pay Commission said they would listen to these workers in Wollongong, to hear from low paid workers and minimum wage dependent workers themselves, what happened? They didn't even turn up. They sent a PR firm! This was not even a one off – this appalling lack of respect for working people, people already feeling anxious about the exposure of the struggle of their private lives, occurred to four other communities!

John Howard isn't governing for these working people and their families.



His laws are not working for them even before we consider the impact of individual contracts.

### **Individual contracts that cut pay and conditions**

Many of these same workers face the prospect of working under an AWA, that cuts their conditions and take home pay, and that puts at risk their ability to meet their work and family commitments.

It is no coincidence that the industries with the highest take up rate of AWAs are hospitality and retail industries, which also have a high a high proportion of female and youth employment: In those industries AWAs are being used to remove penalties and overtime rates.

Remember some of the landmark cases where the courage of these workers has allowed us to tell Australia about the impact of these laws.

- 16 year old juice bar worker Amber Oswald who was shifted onto an individual contracts (AWAs) on the first day of the new laws, 27 March, under which her hourly pay rate dropped and her penalty rates had been abolished altogether. Under the new contract she would receive \$40 less for working a seven-hour shift on Sundays.
- The image of Annette Harris with that Spotlight AWA that removed penalty rates and overtime, and would cut her pay by up to \$90 a week.
- Or the eighty workers employed at Lufthansa's GTS Melbourne call centre who were given non-negotiable AWA individual contracts that cut pay, reduced penalty rates and included a potentially discriminatory bonus scheme.

These are not isolated examples. Not even three months after the laws were in place the Office of the Employment Advocate admitted that a representative sample of AWAs showed:



- Annual leave loading had been removed from two out of three AWAs (64%);
- Penalty rates also gone from two out of three AWAs (63%);
- Shift allowances axed in more than half of all new agreements (52%).
- Overtime payments gone from more than half all new AWAs (51%)
- Public holiday payments gone from nearly half (46%)
- Rest breaks axed in 40% of all new AWAs
- One in six AWAs had abolished every protected award matter.
- More than one in five new individual contracts (22%) contained no pay increases over the life of the agreement (AWA).

The total deregulation of working hours associated with these contracts has a direct and detrimental impact on family life- on our ability to share a meal, to assist with homework, spend time reading to or playing with our kids.

No guaranteed meal or rest breaks. Little if any notice of change of shift. Unpredictable hours. These AWAs are the antithesis of family friendly. They are family hostile.

And they are discriminatory in their effects. There is no mechanism for monitoring, effecting or maintaining equal pay.

And the PM and Kevin Andrews and Joe Hockey and Bronwyn Bishop and the other advocates and apologists who brazenly assert otherwise should be ashamed of themselves.

### **Unfair dismissal**

Almost 4 million workers have lost the right to unfair dismissal protection.

We have never said that there would be 4 million unfair dismissals, but what we have said if any of these 4 million are sacked without just cause, then they



will have no recourse to an impartial arbiter with power to restore them to their job.

Within weeks of the laws taking effect we saw Emily O' Connor , a single mum, sacked from her childcare centre because the boss didn't like her.

We saw 8 workers at Triangle cables, several of them, like Michael, injured at work, seeking a collective agreement – sacked and unable to pursue their case.

How do injured workers get another job before their injuries have healed? Then there is the struggle of collective bargaining.

### **Collective Bargaining**

For many of you in this room the impact of the new laws is felt most keenly in the changes to workplace bargaining.

These have been designed to tie our hands in bargaining, to constrain the ability of workers to protect and promote their interests through collective bargaining, and to hand to the employer an unprecedented menu of scams and schemes by which they can unilaterally determine the working arrangements at their workplaces.

While the changes to bargaining have not been a feature of our public campaign, those of you who are working closely with these laws know that in fact it is in the area of bargaining that the extreme nature of the laws is plainly and starkly exposed.

Each one of you probably has an example of how imbalanced the laws are.

How can it be right that workers face fines for simply asking for unfair dismissal protection in their workplace agreement?



How can it be fair that a union organiser can be denied access to a site to inspect the workplace following a serious injury on site?

How can it be just that parties to an agreement can make a deal, and the very next day the Minister can declare parts of the deal void.

How can it be right that the workers at Heinemann Electrics in Mulgrave work their normal 38 hours a week but lose a full weeks pay because they refuse overtime as part of a campaign of protected action?

How can it fair that they put in a full weeks' work for no pay?

How can it be just that they face fines of up to \$6,600 each if they simply ask to be paid for work done?

It isn't just.

It isn't fair.

And it isn't right!

Just how imbalanced these laws are was driven home to me when I was in Tasmania recently and I met with some workers from United Petroleum.

These workers were employed under the State award. Following a change of ownership the employer restructured its business so that a different legal entity became the employing entity.

Before doing so the new employing entity made a greenfields agreement with itself - that is it unilaterally set the wages and conditions for the workforce without regard to any existing agreement or award obligations. It then offered the workers, who for all purposes it already employed, a job with the new employing entity. The greenfields agreement pays a lower hourly rate, is



absolutely silent on hours of work and has no provision for breaks within or between shifts. Under the agreement a full time worker would be at least \$150 per week worse off.

And, as a bonus for engaging in this scam, the employer has effectively removed the unions' right of entry to organise at the workplace, and has removed the workers right to strike.

One of the former United Petroleum workers has courageously spoken out about the panic he felt when he realised he would lose \$190 week or a quarter of his take home pay. He knew he couldn't pay the mortgage or the loan on his new family car. But he was lucky and got another job. His colleague John was not so lucky for when he went to Centrelink to get support while he looked for another job he was told he that because he already had a job with United Petroleum and, even if he couldn't pay his bills thanks to the cut in pay as a result of the new Greenfields contract, if he left he could not get welfare payments for up to 13 weeks!

For me, this day in Hobart marked the stark difference between the Australia John Howard wants and the one we are fighting for. As I stood with the workers from United Petroleum losing up to a quarter of their week' wage, John Howard was celebrating his claim of a million AWA's being signed.

We know which side we are on and we are building a movement for change

### **A Movement for Change**

These are disgraceful laws. They have no place in a democratic society. They are imbalanced and extreme.

But in this imbalance lies the seeds of their own destruction. The extreme nature of the laws will be their undoing.



Eminent law professor Ron Mc Callum has made this point too.

He points to the complexity of the laws.

He points to the overly prescriptive nature of the laws which force parties to find a “work around” such as the common law arrangements that many unions and employers are entering into.

And he points to the fact that most employers are disinterested in participating in the ideological and unbalanced agenda that underpin the laws.<sup>2</sup>

Nor do the new laws meet the test of International law; fundamental workers rights set by the ILO – the right to freedom of association, the right to organise and bargain collectively and the right to be free from discrimination.

We are determined to see these laws off.

We will continue to use advertising to tell Australia the stories of workers who suffer as a result of the laws.

We will continue to hold national community protests and November 30 2006 will be a magnificent day in our labour movement’s history.

But it is the effort in our own communities — the activities and the discussions with our own members that will make the difference.

We know that Australians are turning away from the Coalition on industrial relations.

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<sup>2</sup> Mc Callum, R Australian labour law after the WorkChoices Avalanche: Developing an employment law for our children, Delivered to Law Society of NSW 3 October 2006



Our research shows that 66% of workers who voted for the Liberal or National Party at the last election are considering changing their vote.<sup>3</sup>

We need to shore up these promising trends and make sure they eventuate into a vote for a change of government at the next federal election — to make sure that every Australian votes to reinstate rights at work.

It is the conversation that our members, their families and community supporters will drive deep into our communities; our homes, neighbourhoods, workplaces, sporting clubs, social networks, anywhere working people and their families meet – that is what will make the difference.

And we are not on our own. We have had broad support from the churches and other community organisations.

### **Optimism**

I firmly believe that we are witnessing the emergence of a positive movement for change.

The movement for change involves a broad and diverse set of conversations. Some are familiar: indigenous rights, alleviation of poverty, women's rights, and foreign policy. Some are overdue such as skills and industry policy. Others are less familiar: climate change, terrorism, and genetic modification.

But in each I see an understanding that there is a call for a new social settlement that will serve Australia in a modern global economy. This conversation is taking place amongst opinion leaders, but it is also taking place in the community. And unions are building strategic alliances and developing reciprocal relationships with other civil society organisations.

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<sup>3</sup> These are the trend results from a pilot survey of 2000 union members (August – October 2006). The survey also confirmed previous findings that around 30-33% of union members voted for the Coalition at the last election.



This was obvious and optimistic as leaders from the National Council of Churches, the ACF, ACOSS and the ACTU with Indigenous and Ethnic Community leaders at an historic national civil society dialogue just two weekends ago; a unique forum with Australia's community leaders and yet the Prime Minister could not find the time to attend!

Unions have an important and leadership role to play in this movement.

Our most direct contribution will be to advocate just and sustainable workplace laws.

- Laws that will facilitate working arrangements that meet the needs of modern workplaces.
- Laws that promote flexible participation in the workforce across through the course of people's lives, that support lifelong participation in education and training, and that foster and reward the acquisition of skills.
- Laws that allow workers to lead balanced lives, to meet their responsibilities to their employers and to their families and their communities.

### **Conclusion**

The IR policy that we will debate over the coming two days, and that will emerge from this Congress, will be the policy that we take into this social dialogue.

The 2006 Congress thus heralds a new phase in our campaign for fair workplace laws in Australia.

It is an historical opportunity for us to develop, in an open debate, a policy framework to govern the design of new legislation that will ensure that jobs



are safe, secure and satisfying, and that working arrangements are fair and facilitate workers meeting their family and community obligations as well as the needs of productive and efficient enterprises.

And it will provide the script for us to continue the conversation that we have been having with the Australian community, to champion not only the values that we hold, but the means by which we can deliver fairness at work.

I encourage you to participate and contribute to the debate and listen carefully to the contributions of others, so that when we leave here tomorrow afternoon we are confident that we have a robust and sustainable policy.

And then it will be up to all of us to promote it:  
With purpose, with discipline and with unity.

And if we do that, we will win.

On Nov 15<sup>th</sup> 2005 we made a promise that we would not be the first generation to hand on a lesser set of rights to our children than those fought for by our parents and grandparents. We meant it.  
Losing is not an option.

Your Rights at Work are worth fighting for and we will do just that.