

Australia: Labor refashions industrial relations policy to suit big business

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Within weeks of winning the leadership of the opposition Australian Labor Party (ALP), Kevin Rudd and his deputy Julia Gillard are already moving to refashion industrial relations (IR) policy in line with the demands of big business.

Powerful sections of the corporate elite were concerned at former leader Kim Beazley's pledge that Labor would "rip up" the Howard government's WorkChoices legislation if it won the federal election due this year. The issue was an important factor in media support for the Rudd-Gillard challenge to Beazley last December.

Beazley's promise had nothing to do with restoring workers' conditions and rights torn up under both Labor and Liberal governments over two decades. Rather it was aimed at shoring up the position of the trade unions, which are deeply concerned at the erosion of their role as bargaining agents by the establishment of non-union individual Australian Workplace Agreements (AWA) under the new laws.

The Australian Council of Trade Unions (ACTU) responded to Beazley's pledge by confining its already limited campaign against WorkChoices to one main objective—getting Labor elected.

With Rudd and Gillard now at the helm, Labor is already under pressure from big business to ditch Beazley's pledge and fashion a new policy that retains the essential features of the WorkChoices laws. And there is every sign that the new Labor "dream team" is falling into line.

In early January, Australian Chamber of Commerce and Industry spokesman Peter Anderson told the media that he was planning to discuss more flexible IR arrangements with Gillard, who is now Labor's new industrial relations spokesperson as well as deputy opposition leader.

"We are hearing that the undertakings given by Mr Beazley to adopt essentially the ACTU agenda will be continued, but.... we are also hearing overtures that there may be some scope for changes," Anderson stated.

"There is no doubt," Anderson declared, "that the new Labor leadership will need to be persuaded to jettison a large

part of the ACTU agenda that Mr Beazley adopted if (it) is going to present a progressive and economically credible industrial relations policy." He warned that it was "quite unrealistic to be tearing up IR laws that employ hundreds of thousands of Australians. You cannot tear up AWAs without consequences."

Gillard responded by saying that she would be quite happy to talk to business. Labor, however, is faced with a dilemma: how to embrace IR legislation that is widely hated by workers, and, at the same time, win the next federal election.

Murdoch's flagship, the *Australian*, provided its answer in an editorial headed "Labor is preaching to the converted on WorkChoices". It read like a wake up call to remind Labor that its most important constituency was not the mass of ordinary working people, but the narrow circle of CEOs and media barons who manipulate political life.

Cautioning Rudd not to "believe your own publicity", the editorial warned: "This simple mistake is one that Labor appears in danger of making as it rolls into a campaign year, believing somehow that the electoral scare campaign they have mounted in conjunction with the trade unionists will somehow swing the requisite number of voters their way.

"Campaigning on the threat to jobs security at a time when Australia enjoys essentially full employment is a Quixotic exercise at best. Combine this with the dangers lurking in the issue for Labor—namely the threat of being seen both as beholden to the union movement and bereft of any ideas save rollback—and industrial relations appears to be more a minefield than a gold mine for Kevin Rudd."

In an extraordinary twist of logic, the newspaper then used the results of its own recently commissioned Newspoll, which showed widespread opposition to the WorkChoices laws, to argue that any move to scrap the legislation would hurt Labor's electoral chances.

The poll results are worth citing. Only 34 percent of voters thought the WorkChoices changes were good for the economy, while 47 percent believed the impact would be negative. Just 33 percent agreed with Prime Minister Howard's claims that WorkChoices would help create jobs,

while 45 percent disagreed. Of those polled, only 14 percent thought they were better off under the new laws, while 33 percent said they were worse off and 48 percent believed the impact on them personally was “neutral”.

Having cited the figures, the editorial then proceeded to argue why Labor should pay attention to minority, not the majority, of voters. “[N]one of this [widespread opposition] guarantees a shift in overall voter behaviour. Just 9 percent of Coalition voters—the people Kevin Rudd needs to convince to switch allegiance come the next election—think WorkChoices is ‘very bad’ and just 6 percent think it is ‘very bad’ for them personally. Most of the dissatisfaction is seen among Labor voters, the supporters Kevin Rudd should already be able to count on.”

In other words, Labor can afford to alienate workers opposed to the legislation because they will continue to vote for the ALP no matter what. Rudd should instead try to win over Coalition voters from the government by retaining WorkChoices, at least in its essentials. Even as a cynical electoral strategy, this proposal does not hold much water. The editorial’s subliminal message to Rudd was far more important: defy us and we will turn the IR laws into an election minefield for Labor.

The *Australian* drove home the point with several more editorial broadsides warning Labor against “favouring proscriptive solutions” such as “a rigid 38-hour week”, “the return to penalty rates” or “a proscriptive set of minimum conditions”.

“By favouring a one fits all solution Labor misreads the dynamics of the modern workplace... [Many] of today’s workers, regardless of income,” the newspaper claimed, “want the flexibility to negotiate their own arrangements”. It is, of course, flexibility for employers, not workers, with which the *Australian* is primarily concerned.

Labor appears to have already got the message. A significant shift took place just last week. The party’s frontbench spokesman on independent contractors, Craig Emerson, declared that Labor would now retain the Independent Contractors Act introduced by Howard in December.

The Act, which was originally opposed by Labor and the unions, strengthened the ability of employers to axe permanent jobs and rehire the workers as contractors—a process known as sham contracting. It also exempted independent contractors from state industrial laws and awards. The Act also stipulated that no work agreements could contain clauses restricting the employment of independent contractors or labour hire workers.

In announcing the about-face, Emerson foreshadowed that Labor would “possibly” look at tightening it to prevent “sham contracting arrangements”, but quickly added that it

would not be “overtly prescriptive”. In an editorial on January 10, the *Australian* lauded the shift as a “welcome change in thinking from the ALP, away from the class-war rhetoric that workers are victims of capitalism rather than its beneficiaries.”

Gillard has already flagged other policy changes, saying that Labor’s collective work agreements would not preclude individual common law agreements on the same work sites. “I understand that there are individuals who want to work long hours or are happy to work irregular hours, and would structure their employment arrangements that way, and that’s fine, but you do need some sense of genuine choice,” she declared.

The implications of Gillard’s suggestion are obvious. If the possibility exists to impose individual contracts then employers will exploit the loophole to the hilt to pressure workers to sell off basic rights and conditions, or to agree to unfavourable conditions in exchange for retaining their jobs.

Australian Chamber of Commerce and Industry spokesman Peter Anderson complained that the common law contracts mooted by Gillard “did not provide the flexibility under AWAs” and “can only provide bargaining flexibility if they can override restrictive practices in union agreements or industry-wide awards.”

But other employers were far more pragmatic. Australian Mining and Minerals Association official Chris Platt told the *Australian Financial Review* that if Labor legislated to allow common law contracts to override awards and collective agreements, make them enforceable and ensure they were not subject to strike action, his association would support the proposal. “If the ALP is able to deliver us a workable system of individual workplace agreements, we are not hung up about what you call them,” he declared.

To anyone experienced at decoding Labor’s double-talk, it is obvious that big business will get the necessary guarantees on IR prior to the federal election.



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