Australia: Labor endorses Howard government's "fairness test" fraud

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13 June 2007

The federal Labor opposition led by Kevin Rudd has given its unanimous support to an amended version of the Howard government's WorkChoices legislation, making clear the ALP's support for a new wave of industrial relations "reform" on behalf of the corporate elite.

On May 28, the government tabled legislation in the House of Representatives amending its despised WorkChoices industrial relations laws to include a so-called "fairness test". It claimed the changes would compel employers to compensate workers for any conditions stripped away as a result of Australian Workplace Agreements (AWAs)—individual work contracts.

The government's claim that it was providing some kind of "safety net" was completely bogus, but Labor accepted its legitimacy, voting merely to amend the legislation, thereby providing Prime Minister John Howard with a much-needed vote of confidence.

Introduced by the Howard government in March 2006, the WorkChoices laws allow employers to force workers onto AWAs and scrap longstanding conditions, including penalty rates, shift allowances, holiday leave loading and public holidays, vastly exacerbate the precarious existence of millions of working people.

The "fairness test" was first floated by Howard at the beginning of last month in the wake of successive opinion polls indicating the government faced decimation in federal elections due later this year.

A recently released state-by-state analysis based on opinion polling by *Herald*/ACNielsen showed that if current trends continued, the government would lose 46 of its current 87 seats, including those of Howard and his environment minister Malcolm Turnbull.

The "fairness test" is a desperate attempt to hose down popular hostility to the industrial relations (IR) laws, which have become a focal point for broader discontent over issues ranging from the government's support for the Iraq war to its pro-market domestic policies that have produced staggering levels of social inequality.

To sell its "fairness test", the government embarked on a $4.1 million tax-payer funded advertising campaign from mid-May that excluded any mention of the title WorkChoices. In addition, Howard instructed his ministers to use the term "workplace relations" when referring to the IR laws in media interviews—prompting one commentator to declare that WorkChoices was "the law that dare not speak its name".

On the eve of the vote, and in full possession of the details of the bogus "fairness test", Labor's workplace relations spokesman and deputy leader Julia Gillard recommended to caucus that it support the legislation even while claiming the changes "would make it (WorkChoices) only 99 percent unfair". She added, cynically: "We are not going to stand in the way of that tiny amount of difference."

The fairness test in no way alters the essence of WorkChoices—one percent or otherwise. It will merely act as a cover for employers to continue their destruction of workers' hard-won conditions and rights. When a current work agreement expires employees can still be shoved onto AWAs and they still cannot legally oppose the stripping away of former award conditions.

The new legislation applies only to workers earning a gross salary of up to $75,000, and excludes those placed on AWAs between the introduction of WorkChoices in 2006 and May of this year—some 2.5 million people in all. It's sole stipulation is that employers offer fair "monetary and non-monetary" compensation for conditions lost.

Given that the express purpose of WorkChoices and AWAs is to provide employers with a mechanism to slash costs and impose ever-greater flexibility in the workplace, any claim that workers will be adequately compensated is pure nonsense.

In practice, "traded off" award conditions will never be

regained. And even if pay rates are adjusted, or alternate compensation granted for the surrender of conditions like weekend penalty rates, such "concessions" could be easily clawed back in subsequent agreements.

Additionally, any concessions granted by employers would not be legally protected as WorkChoices legislation stipulates that AWAs need only guarantee five basic items.

The sole judge of what constitutes "fair" compensation will be the government's Workplace Authority, charged with ratifying all new AWAs and overseeing the application of the "fairness test". The legislation requires only that the Authority "be satisfied that specified workplace agreements provide fair compensation in lieu of the modification or exclusion of protected award conditions".

According to legal experts, the only recourse for workers who disagree with the Authority's assessment is to lodge an appeal in the High Court—an action so costly and difficult as to preclude any worker from doing so.

Significantly, the legislation contains no provision to penalise employers refusing to provide compensation, while handing the Workplace Authority the power to exempt companies it deems to be facing "financial problems".

In whose interests the Workplace Authority will unfailingly act can be judged by the record of its forerunner, the Office of the Employment Advocate (OEA). It ratified thousands of agreements which slashed a range of basic conditions.

A sample survey of 250 of the 6,263 AWAs presented and approved by the OEA in April 2006—just one month after the introduction of WorkChoices—showed that each one had scrapped at least one award condition, while 16 percent had removed all award conditions.

So widely has the OEA become identified as a rubber stamp for every outrageous attack on workers' conditions that the government has now legislated a name change—to Workplace Authority.

Similarly, the Office of Workplace Services (OWS), created under WorkChoices and billed as an independent IR watchdog, has been rebadged as the Workplace Ombudsman. Investigations carried out by the OWS into workplace abuses by companies inevitably exonerated the employers involved. Clearly, by renaming the two bodies the government hopes to create the illusion that both are unbiased and have been endowed with a new-found independence.

Rudd and Gillard's unhesitating support for Howard's phoney "fairness test" was specifically designed to signal to the business and media establishment that Labor is moving rapidly to accommodate its demand to further refashion its IR policy in line with corporate dictates.

While Labor's "Forward with Fairness" IR policy rolled out at its national conference at the end of April promised an industrial regime as draconian as Howard's, including the very same anti-strike laws contained in WorkChoices, it did not go as far as pledging to retain AWAs.

Labor's opposition to AWAs, however, has nothing to do with defending workers' conditions and rights, but is aimed at assuring the unions a role as primary bargaining agencies and industrial policemen in any new IR set-up.

For now, Rudd and Gillard are anxious to keep the unions on side to ensure their ongoing financial and electoral support. Unions are currently pumping over $20 million into campaigns in a series of key marginal seats.

But Labor confronts increased pressure from business, led by the mining companies, demanding the unfettered right to impose whatever conditions it chooses and a virtual end to any negotiation process.

Gillard has promised she will "fine tune" details of Labor's IR policy in consultation with employers over the coming months, including the provision of individual contracts with the same scope as AWAs. To facilitate such a shift is undoubtedly one of the reasons behind Labor's support for Howard's phoney "fairness test".

As a further down-payment and to indicate that more shifts are already underway, Gillard has announced Labor will retain the Australian Building and Construction Commission (ABCC)—the construction industry policeman set up by Howard—until 2010. The ABCC has presided over a series of vicious attacks on construction workers, including charges for striking that carry massive individual fines and the threat of jail terms.

Little wonder then that Gillard's announcement was immediately and warmly welcomed as an act of good faith by Master Builders Australia CEO Wilhelm Harnisch, who declared: "Today's announcement is an important first step in fine tuning the ALP's industrial relations policy for the industry".