

# Australia: Labor uses Howard's construction industry watchdog to attack building workers

## Unions "play-acting"

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Prime Minister Kevin Rudd is using the Australian Building and Construction Commission (ABCC)—the construction industry watchdog set up by the previous Howard government—to launch a new assault on the rights and conditions of building workers.

In the run up to last year's federal elections, following closed door discussions with construction employers, Rudd announced that Labor would retain the agency until 2010. Within months of Labor taking office, the Commonwealth Director of Public Prosecutions summoned the Victorian branch vice president of the Construction Forestry Mining and Energy Union, Noel Washington, to appear in court for refusing to attend a closed-door ABCC interrogation about an off-site union meeting last November.

Washington, whose court case will be held later this month, is the first person to be charged for failing to attend an ABCC session, and faces a possible six-month jail sentence. The attack against him highlights the extraordinary powers that lie at the ABCC's disposal. In many respects these powers are far greater than those of the police, denying the most elementary legal rights that apply in the investigation of criminal cases. Not only can the ABCC demand a person submit to interrogation on pain of prosecution, its inspectors can enter building sites, interview anyone without a lawyer present, demand documents and force any person to provide information relating to industrial action or internal union business. The watchdog also has the power to initiate prosecutions with fines of up to \$110,000 against unions or \$22,000 against individuals for taking "unlawful" industrial action.

Disclosing the contents of an ABCC interrogation can lead to six months' imprisonment, as can refusing to attend a hearing or answer questions. According to the CFMEU, more than 50 building workers have been hauled before the commission since its establishment in 2005 and forced to give information under threat of charges and imprisonment.

Rudd gave the green light for the ABCC to proceed against Washington as well as to conduct a string of other legal actions against unions and building workers. On August 25, he told a caucus meeting of government MPs that he would not budge on

his decision to keep the ABCC until 2010, or even concede to limiting its powers in the interim, declaring its retention was an "election promise".

The deal to retain the ABCC—along with the anti-strike laws and other anti-worker provisions of Howard's hated WorkChoices IR laws—was worked out by Labor in backdoor discussions with major employer groups in order to gain backing for the party's election drive.

The employers are now reaping the rewards. Labor is using the ABCC to intimidate workers under conditions where hundreds of enterprise work agreements are being renegotiated across the building industry. Construction companies, facing a significant downturn, are demanding wages be driven down and that, at the same time, their employees hand over major productivity concessions.

The stepping up of the ABCC's punitive activity under Labor was revealed in statistics reported in the *Australian* newspaper on July 15, showing the number of investigations by the commission rose from 33 in November to 49 in June, with a high of 58 in April. The number of building site visits by inspectors jumped from 15 in November to 109 in June. Most of the investigations—73 percent—were aimed at workers involved in union activity.

Just one month after Labor came to office, the ABCC successfully prosecuted nearly 100 building workers in Western Australia for going on strike in February 2006 in defence of a delegate while they were employed on the Perth to Mandurah rail project. The workers were fined \$10,000 each and ordered to pay one-third, with the remainder suspended on condition they did not breach any industrial laws for six months.

In April this year, the CFMEU was fined \$5,500 and one of its officials \$1,800 because workers on a NSW South Coast site took industrial action in 2005 against an earthmoving subcontractor who did not have a union industrial agreement. The union was also ordered to pay the subcontractor \$23,000 in damages, with \$9,554.77 interest.

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Building workers should put no faith in the current campaign being conducted by the Australian Council of Trade Unions (ACTU) and the construction unions, which centres on anti-ABCC publicity and advertising, along with limited protest action designed to “pressure” the Rudd government.

The real purpose of the campaign was on display at a Victorian Trades Hall Council (VTHC) meeting on July 30, attended by 1,500 union delegates from the building and other industries to discuss the Washington case. While the turnout undoubtedly reflected the broad opposition and hostility among construction workers and other working people to the ABCC’s attacks, the meeting was restricted to making impotent appeals to Labor.

Even though the delegates unanimously passed a resolution demanding the government abolish the ABCC, VTHC president Ann Taylor refused to allow a vote on two amendments proposing limited industrial action, including a 24-hour stoppage on the day Washington goes to court and a second 24-hour stoppage if he is jailed.

Following the meeting, CFMEU construction division national secretary Dave Noonan admitted that the unions’ campaign was confined to putting pressure on the Rudd government declaring: “If we win the argument in the community, we hope the government will follow”.

The union bureaucracy is well aware that broad popular opposition already exists to the entire industrial relations regime introduced by the Howard government, including the ABCC. This was shown by the mass demonstrations that took place in response to the introduction of Howard’s “WorkChoices” laws, which the unions diverted into support for the election of Labor, promising that Rudd would be “more worker-friendly”, or at least the lesser of two evils.

Naturally, no reference was made to Labor’s previous 13 years in office from 1983 to 1996, when it carried out ruthless attacks on workers, including the 1986 deregistration and smashing of the Builders Labourers Federation (BLF).

The operation against the BLF was carried out with the full support of the unions, in line with the Accord struck by the ACTU with the Hawke-Keating Labor government. Officials of the Building Workers Industrial Union, the CFMEU’s predecessor, escorted scabs across BLF picket lines. While the BLF leadership had endorsed the Accord, its members had a history of militant industrial action to win improvements in pay and working conditions. The crushing of the BLF was designed to intimidate and discipline workers across all industries.

Now, once again, the unions are working to establish themselves as the industrial police force for Labor. While trying to head off a collision with the Rudd government they hope to exploit the widespread discontent among their members and other workers as leverage to gain a key role in Labor’s new

industrial relations setup.

It should not be forgotten that every union representative, including from the building unions, voted for Labor’s industrial relations platform *Forward with Fairness*—which retained Howard’s anti-strike laws—at the party’s national conference in April last year. The vote was a pledge that the unions would act as enforcers.

Significantly, while calling for the abolition of ABCC, the unions say nothing about Labor’s proposed future industry watchdog Fair Work Australia (FWA), into which the ABCC will be incorporated after 2010. The FWA’s powers are currently being formulated in consultation with the employers, and Workplace Relations Minister Julia Gillard has already made clear they will be very similar to those of the ABCC. Gillard said the new body would “ensure that a strong oversight of the (construction) industry is preserved”. Moreover, the FWA’s powers will extend to every industry.

The media and corporate establishment fully recognise that the unions have no intention of seriously challenging the Rudd government over the ABCC or any other issue. This was made clear in an article in the September 3 *Australian* newspaper by Janet Albrechsten, an unashamed cheerleader of the ABCC’s attacks on building workers.

Albrechsten wrote: “Don’t be fooled by the pantomime being played out over the Australian Building and Construction Commission. Kevin Rudd and his Government and, more particularly, the unholy alliance of unions, academics and agitators demanding that the Labor Government kill off the ABCC now rather than in 2010, all realise this is play acting” adding “all parties know it won’t happen.”

Even so, last month Master Builders Association Victorian executive director Brian Welch took time out to warn the Rudd government against any softening of its position in response to the union campaign, declaring: “Investors are wondering if this would be an end to the more predictable environment for construction that they have had—it’s been a halcyon two years in Victoria particularly.” Labor, in other words, needs to concentrate all its attention on the demands of its real constituency—the corporate and financial elites and their mouthpieces in the media establishment.



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