

# Australian prime minister denounces opposition to workplace safety cuts

**Terry Cook****22 October 2010**

Prime Minister Julia Gillard denounced her New South Wales state counterpart, Premier Kristina Keneally, last week for refusing to enact legislation to scrap some of the state's occupational health and safety (OHS) provisions in order to deliver employers a uniform national OHS regime by 2012.

All involved are well aware that Keneally's posturing in defence of workplace safety is an attempt to reverse almost certain defeat in the state election next March. However, the corporate and media establishment has declared that it regards the issue as a crucial test of Gillard's ability to impose a new wave of pro-business economic and workplace restructuring.

Gillard told journalists that the federal government would not allow the NSW government to "to stand in the way of this major economic reform designed to boost our economy". Gillard added: "They signed an agreement; a deal is a deal. We require that the deal to be honoured."

The agreement to which Gillard refers was brokered with the Council of Australian Governments (COAG) in July 2008. It was signed by all state and territory governments, other than Western Australia, committing them to modify OHS laws by December 2011 in line with model legislation drafted by the federal government.

When the deal was signed, Gillard, who was then the workplace relations minister in the Rudd government, said it was one of her "greatest achievements". She declared it was "a massive step forward in achieving a seamless national economy that Australia needs to release lasting and much needed productivity improvements".

It was revealed last week that Keneally had written to Gillard, stating that national harmonisation of OHS laws "should not occur if it lowers safety standards for

workers in NSW". Keneally said her cabinet had "taken a principled decision that we will not enact the legislation as it is currently proposed".

Employers' groups vehemently attacked Keneally's move. In an open letter sponsored by the Australian Industry Group (AIG), the major business organisations warned Keneally: "NSW risks losing investment, jobs and credibility if it walks away from its commitment to the agreed national laws." Independent Contractors of Australia spokesman Ken Phillips declared: "The national consensus that Julia Gillard has crafted inside the Labor movement for sensible, effective work safety laws has just crashed."

The most pointed directive to Gillard was delivered by the *Australian's* editor-at-large Paul Kelly in an article entitled "New politics takes on toxic taste" on Wednesday. Kelly labelled Keneally's move a "radioactive" threat that could "undermine the Council of Australian Governments' agenda and cripple the initiative Gillard upholds as her decisive first-term reform".

Kelly stated: "The eruption that has engulfed the agreement to harmonise occupational health and safety laws is a blow for Gillard yet an opportunity to show her mettle." In other words, if Gillard is to retain corporate backing she must prove that she can deliver ongoing "reform" by riding roughshod over all opposition to the establishment of the new OHS regime.

On Monday Gillard threatened to withhold \$144 million in payments to NSW unless Keneally backed down. She also said she was investigating other "options" that could include introducing federal legislation to force the NSW government to comply.

Gillard has made no secret that the OHS changes, which replace 10 pieces of federal and state legislation

and more than 400 OHS regulations, are in the interests of corporate profits. She told media last week the new laws would produce similar benefits to Australian business as her national workplace relations system, which a recent Access Economics report estimated would deliver \$4.83 billion in cost savings over the next ten years.

The existing state OHS laws are grossly inadequate to protect workers from unsafe and unhealthy conditions. According to a March 2009 report by the federal government's Australian Safety and Compensation Council, the number of people who experienced a work-related injury grew by 44 percent between 2000–01 and 2005–06. The council recorded 2,603 work-related fatalities in 2005–06, but warned that this was a conservative estimate, with studies indicating that as many as 7,000 fatalities may occur annually as a result of work-related diseases.

While Gillard claims that the new legislation will maintain "high safety standards," it is designed to enhance profits at the expense of workers' safety. It requires employers to take only "reasonably practicable" steps to ensure health and safety, and specifies that financial cost is a "relevant matter" in deciding what is reasonably practicable. The legislation also imposes a duty on workers to take reasonable care for their own health and safety, while protecting company executives by requiring them only to exercise "due diligence" to see that their companies comply with health and safety rules.

The new OHS regime will also reverse the principle of "strict liability" for workplace safety imposed on employers in NSW and Queensland. Under the NSW legislation, for example, if workers are killed or injured, employers can be fined unless they prove that it was "not reasonably practicable" for them to have provided a safe and healthy workplace.

In NSW, the changes will also end the ability of trade unions to prosecute employers on health and safety charges. In Victoria, the legislation will undermine the rights and authority of workers' OHS representatives, and make it easier for industrial courts and tribunals to remove these elected representatives.

Keneally's position has nothing to do with ensuring workers' safety. The NSW Labor government has opposed the introduction of industrial manslaughter laws to prosecute employers whose negligence causes

workplace deaths, and some years ago attempted to abolish the very clauses in the state OHS laws that it now claims are sacrosanct.

The "principles" espoused by Keneally did not stop the NSW Labor government from signing up Gillard's OHS scheme in 2008 as a means of currying favour with the corporate establishment. The present apparent change of heart is not determined by principle but by political expediency.

Keneally is facing a state election on March 26 next year under conditions of widespread popular hostility to her government over every basic issue, from failing public transport and social infrastructure to a crisis-ridden public health system. She is desperate to find at least one issue to differentiate from the Liberal opposition, which has pledged to enact Gillard's OHS changes if elected next year.

Keneally's manoeuvre is backed by the ACTU and Unions NSW, the state's peak union body. The unions' opposition has nothing to do with concern over workers' safety either. At every point they have worked to confine public opposition to the proposed OHS laws to limited protests (see: "Workers protest against Labor government assault on safety laws"). During the August federal election campaign, the unions made no mention of the planned legislation and worked tirelessly to return a Gillard government.

If Keneally were to pull off what most regard at present as an electoral miracle and retain government next March, there is nothing to prevent her from doing a back flip and enacting the required OHS legislation before the December 2011 deadline.

*The author also recommends:*

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