

Australia: Construction workers hit with large fines for striking

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The Federal Court last week imposed fines totalling more than \$1 million on 117 construction workers. The court declared “unlawful” their eight-day strike in October 2008 at Woodside Petroleum’s liquefied natural gas (LNG) expansion project on the Burrup Peninsula in northwestern Australia.

The fines, among the largest ever imposed on individual workers in Australia, are intended to intimidate workers and deter industrial action, particularly in the key mining sector, which has been hit by falling investments and exports. According to a recent Bureau of Resources and Energy Economics report, resource projects worth \$150 billion have been shelved in the past year, with the fate of others to be determined by “commodity prices, construction costs and productivity.”

The workers targeted by the Federal Court action were employed by contractor CBI Construction on the Woodside project. They walked off when CBI refused to abide by an enterprise workplace agreement entitling workers to redundancy payments at the end of one stage of the project and re-employment for the next.

Declaring that the strike “caused significant project delays and economic losses” for Woodside, Federal Court Justice John Gilmour imposed individual penalties of \$10,000 each on 24 strikers and fines ranging from \$1,000 to \$5,000 on the others.

Gilmour ordered that \$680,125 of the penalties be paid within 60 days, setting the stage for more punitive measures against workers who fail to comply. Payment of the remaining \$387,875 was suspended, but workers will be liable for immediate payment if they breach any industrial law within the next three years.

The legal action was initiated by the Australian Building and Construction Commission (ABCC), a federal government industrial watchdog, after the

strikers defied a return to work order issued by the Australian Industrial Relations Commission on the first day of their action.

Established in 2005 by the Howard Liberal-National government, the ABCC had extraordinary coercive powers to compulsorily question workers, as well as to punish workers for taking industrial action in defence of jobs and conditions.

The Federal Court decision was handed down just after the election of the Abbott Liberal-National government on September 7. The ruling will no doubt set the tone for the deeper assault on workers’ rights and conditions now demanded by the financial and corporate elite. But it was the previous Labor government that presided over the prosecution of the CBI workers. The ABCC’s action was initiated under the Rudd government, which retained the construction watchdog after gaining office at the 2007 federal election.

Labor finally abolished the ABCC in March 2012 but replaced it with its own Fair Work Building Industry Inspectorate, which preserved the former’s coercive and punitive powers, including to bring charges and seek fines against construction workers. The inspectorate was part of broader Fair Work Australia legislation that outlawed all action, including partial stoppages, go-slows, overtime bans and work-to-rules, outside “protected” periods during negotiations for new enterprise work agreements.

Labor’s laws have been used to impose fines in a series of other disputes. Workers on Woodside’s Pluto LNG project in WA were penalised for striking in 2009-2010 when the company arbitrarily downgraded their accommodation conditions. In that dispute, the Federal Court also ordered the Construction Forestry Mining and Energy Union (CFMEU) to pay around \$2

million in compensation to Woodside—a direction with which the union abjectly complied.

In 2009, fines were imposed on striking construction workers on the West Gate Bridge upgrade project in Melbourne. The Fair Work laws were also invoked to shut down industrial action by workers in defence of conditions at the Wonthaggi desalination plant project in Victoria. The ABCC intervened into both disputes.

While the Abbott government has vowed to reintroduce the ABCC, it has also pledged to retain the Labor government's Fair Work laws, with some modifications, thereby acknowledging their effectiveness as a tool in suppressing industrial action by workers to defend jobs and conditions.

Employer groups, who have been urging Abbott to fashion an even tougher industrial relations regime, heralded the vicious attack on the CBI workers. Master Builders Association (MBA) spokesman Kim Richardson declared: "The conduct of these employees was wilful and deliberate in defying an Australian Industrial Relations Commission return-to-work order." Richardson said the MBA fully supported "the restoration of the ABCC" and would be urging the government to make good on pre-election promises to "beef up" the watchdog's powers.

While the CFMEU criticised the fines imposed on CBI workers as "vindictive," the union will wage no campaign against the court's ruling. Along with all the trade unions, the CFMEU endorsed the Fair Work regime, including its anti-strike laws, which entrenched their position as an industrial police force. The unions' main concern now is to convince big business and the Abbott government that they are the most effective means of enforcing the requirements of employers.

The unions wasted no time in seeking an accommodation with the incoming government. On September 8, the day after the federal election, Australian Council of Trade Unions president Ged Kearney issued a statement announcing that the unions "stand ready to work with the Abbott government on measures to improve pay and conditions for working people."

The reality is that the unions worked hand in glove with the Labor government to enforce the elimination of thousands of jobs—including in construction, manufacturing, retail and mining—the driving down of wage levels and the erosion of working conditions.

They will now intensify their collaboration with the employers under the Abbott government.



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