

Australia: Unions silent as court imposes fines over “illegal” strikes by teachers and nurses

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Last Thursday, the New South Wales (NSW) Supreme Court fined the union covering public school teachers \$60,000 over industrial action carried out earlier this year, including a 24-hour strike on May 4.

This followed a \$30,000 penalty levied against the NSW Teachers Federation (NSWTF) in March for a statewide strike on December 7, 2021, the first by teachers in more than a decade. The two actions had proceeded despite orders from the Industrial Relations Commission (IRC) banning the strikes.

The NSWTF had been compelled to defy the rulings of the anti-worker tribunal by the anger and frustration of teachers over cuts to real wages, chronic staff shortages exacerbated by the COVID-19 pandemic and the ongoing danger posed by the virus itself.

Like all NSW public sector workers, teachers are covered by a cap limiting annual wage rises to 2.5 percent, inclusive of increases to compulsory superannuation payments. This was temporarily increased to 3 percent earlier this year, but is still far below the official inflation rate of 6.1 percent.

While the unions insist the Liberal-National government is exclusively to blame for the harsh cap, it was originally introduced by the Morris Iemma Labor government in 2008. Labor state governments around the country, and federally, maintain similar constraints on public sector pay. At the start of the year, the Victorian Labor government lowered its wage cap to 1.5 percent, a fact the Australian Education Union (of which the NSWTF is a state branch) used to ram through a sell-out deal offering a pay increase of less than 2 percent.

Public sector nurses have also been the target of harsh penalties for so-called “illegal” strikes this year. On September 28, the Supreme Court imposed a \$25,000 fine on the NSW Nurses and Midwives’ Association

(NSWNMA) over a statewide strike by nurses on March 31. The court did not levy a fine over an earlier action on February 15, finding that a procedural error by the IRC meant the Commission’s ban on the strike was invalid.

The NSWTF and NSWNMA, along with the state’s peak union body, Unions NSW, have adopted a stony silence over the fines. This is because the unions fundamentally agree with the IRC and the draconian anti-strike laws it enforces.

The unions refuse to mobilise workers against these unjust laws, which are instead presented as evidence that workers are powerless to fight and that improvements to wages and conditions can only be achieved through plaintive appeals to governments.

The reality is, it is only through a fight against the industrial courts, which prosecute the shared agenda of Labor and the Liberal-Nationals, that workers can advance their struggle. This requires a break with the unions, which enforce the rulings of the courts and defend their supposed role as “independent umpires.”

This poses the need for teachers, nurses and all sections of workers to form new independent organisations of struggle, rank-and-file committees in every workplace, to democratically prepare and conduct a fight for demands based on the needs of workers, not what the government, management, or the union says is “affordable.”

The silence of the unions in response to the recent fines stands in contrast to the statement in February by then NSWNMA secretary Brett Holmes that it would be “very unfortunate” if Premier Dominic Perrottet proceeded with his threats to fine the union over the first strike.

This was a warning that a *public* attack on a section of workers hailed as “pandemic heroes” could provoke

an eruption of anger among nurses and the broader working class that the unions would not be able to control.

The clear message to Perrottet was that, as long as the question of fines was kept within the safe walls of the courts, they could be used tactically by the unions as justification to prevent future strikes.

Since the prominent strikes in the first half of the year, both the NSWNMA and NSWTF have done everything in their power to crush any further action of workers, although none of the workers' demands have been met, and the conditions underlying the strikes—soaring inflation, chronic staff shortages and the COVID-19 pandemic—have only worsened.

Since May the NSWTF has allowed only a single strike, on June 30 and a pathetic “day of action” last Wednesday, which amounted to a brief rally outside the IRC before school hours and a call for teachers to wear red throughout the day.

The NSWNMA has limited workers' action to a stop-work meeting on June 28, a handful of demonstrations in nurses' own time and a statewide strike on September 1 that was an exercise in isolation and demoralisation. Rather than mass rallies, as were held in February and March, workers were confined to small protests at around 60 separate locations across the state, mostly individual hospitals.

Both unions have now completely transformed these disputes into campaigns for the Labor Party in the lead-up to the NSW election in March 2023. Breathlessly promoting meagre promises from Opposition Leader Chris Minns, which fall far short of meeting workers' demands, the unions are attempting to divert the anger of teachers and nurses into the safe channel of parliamentary politics.

In fact, Minns has repeatedly denounced striking workers and made clear that public sector wages must be tied to “productivity.” This parallels the agenda of the federal Labor government, which opposes “across-the-board” wage increases and has warned workers they will need to swallow “tough medicine.”

It is also in line with the historical record of Labor governments at both the state and federal level, which, no less than the Liberal-Nationals, have prosecuted decades of funding and job cuts in public education and health. This has been overseen and enforced by the unions at every turn.

In her ruling last week, Justice Christine Adamson spelled out the broader agenda behind penalising the NSWTF: “It is important to set the fine at a level such that it will deter not only the Federation but also others who are considering breaching dispute orders... This cannot be a matter of science or calculation.”

In other words, the fine is intended as a warning to the entire working class that any attempt to challenge the deepening assault on wages, conditions and rights as basic as a workplace that is not riddled with disease will be met with harsh retribution.

The same motivation is behind a plan announced by Perrottet in June, and put before parliament in August, to increase the maximum penalty for defying IRC strike bans more than fivefold.

If passed, the legislation will raise the maximum penalty for the first day of industrial action to \$55,000, with subsequent days attracting a fine of up to \$27,500. These penalties, as is the case with the current laws, would be doubled if a union is deemed to have repeatedly breached orders. The rulings against both the NSWTF and NSWNMA make clear that even a decade of total suppression does not exempt unions from classification as recidivists.

When this plan to step up fines was announced, it was initially denounced by the unions, but this was merely a pantomime. The refusal of the unions to mobilise workers against the anti-democratic move, along with their silence over the recent fines exposes the truth: The unions do not oppose the harsh penalties meted out against striking workers; they rely upon them as a pretext for suppressing the workers they falsely claim to represent.

In allowing the fines to pass without opposition, the unions are also helping to establish a precedent that will undoubtedly be used against the struggles of the working class that will increasingly emerge outside the control of the corporatised trade union bureaucracy.



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