

# An Industrial Relations System for Working People



Communist Party of Australia



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# BASIC PRINCIPLES FOR A NEW IR SYSTEM

## The Starting Point

Compulsory arbitration existed in Australia for over 100 years. In that time there were a number of changes but in essence it remained the same with the same objectives: to prevent and settle industrial disputes by conciliation or when that failed, by arbitration and enforcement by an industrial Court governed by industrial law outside of the common law and corporate law systems.



Soon after Federation in 1904 the Australian Government on behalf of the ruling class created an arbitration system to control unions and moderate the class struggle (State systems were already in existence). The turbulent time and strike action of the 1890s was firmly in the minds of

Australia's bosses and rulers. Trade unions had taken a thrashing at the time and also called for a system of compulsory conciliation and arbitration.

The Conciliation and Arbitration system provided for legal registration of trade unions and employer organisations. Arbitration provided awards which were legally binding on trade unions and employers. Awards which tended to cover an industry eventually contained most of the issues related to wages and working conditions that arose in an industry. Despite its role being to prevent and limit strike action compulsory arbitration failed in that objective and in some periods strike action reached high levels.



As a consequence the penalties imposed on trade unions for strike action and for failing to observe decisions of the Court, were steadily increased by both Labor and Liberal (and its predecessors) governments.

## **Destroying Industry Arrangements**

The Hawke Labor Government, elected in 1983 commenced the process of dismantling the centralised award system, a process continued by the Howard Government's Workplace Relations Act which limited the scope of awards to 20 "allowable matters".



"Simplified" (i.e. gutted) awards remain a policy objective of Australian governments to this day.

The Hawke Government introduced "enterprise agreements" which broke down the dominance of awards as the basic industrial instrument. The flow-on effect of this movement away from all encompassing industry agreements was the introduction of individual contracts, AWAs, and an attempt to enshrine this form of individual contract as the primary means of specifying wages and working conditions. WorkChoices effectively did this and the Australian people through the union and community campaign for "Your Rights at Work" were successful in removing the Howard Government, largely because of their unpopular industrial legislation.

**"Awards are subsequently being stripped and further eroded today"**

## The Accord

One of the main features of the Hawke and Keating Government was the advocacy of collaboration between the Government, trade unions and the employers. This process which took the form of a Prices and Incomes Accord (the Accord) relied upon removing basic and

**“This destructive period of class collaboration resulted in huge decreases in trade union membership density”**

irreconcilable differences between capital and labour. The process could not achieve this but succeeded in disarming the rank and file of the trade union movement who were withdrawn from struggle, particularly strike actions, while trade union leaderships assumed their place at the table negotiating

on behalf of workers under the false illusion that there were common interests between labour and capital. This destructive period of class collaboration resulted in huge decreases in trade union membership density and the loss of wages and working conditions in many areas. The trade union movement is yet to fully recover from this period.

The Your Rights at Work campaign proved to be a positive influence on trade unions and saw a re-engagement of trade union members in the huge campaign to get rid of the Howard Government. The workers who participated

### The Liberals' workplace laws have hurt working families



**Over four million working Australians have lost protection from being unfairly sacked.**

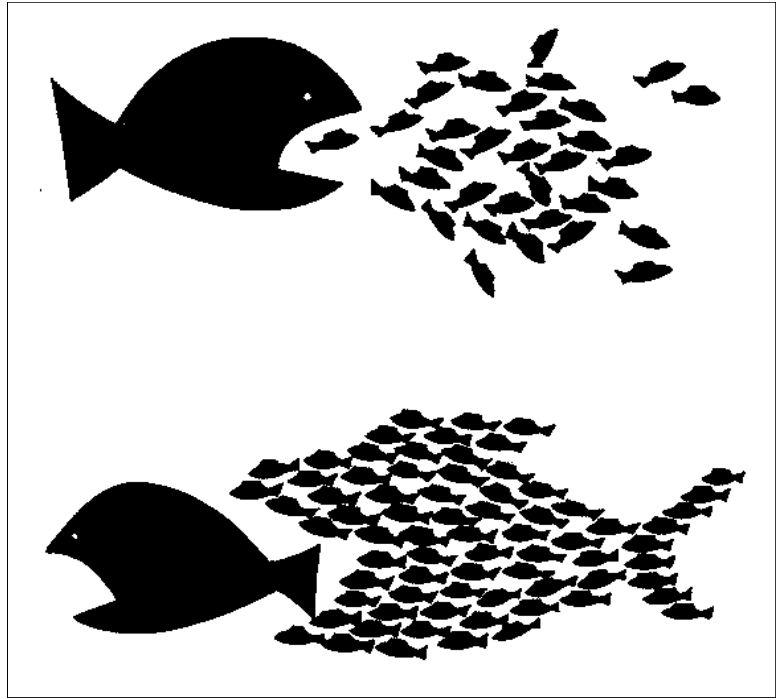


**AWA individual contracts have cut take home pay and conditions like penalty rates, overtime, public holiday pay and annual leave entitlements.**



**Young workers are losing conditions.**

were interested in getting rid of WorkChoices; the removal of the Howard Government was seen as the way to get rid of WorkChoices. The Howard Government was defeated but not all the laws associated with WorkChoices were removed and this remains a serious point of contention with Australian workers who fought hard to get rid of the laws.



## **Collective to Individual**

The Howard Government took this process of promoting and imposing individual Australian Workplace Agreements (AWAs) to a new level by making this individual form of employment arrangement the very basis of their IR policy. All governments since the Hawke Government have been part of the process of moving away from broader industry type arrangements for workers. The Howard Government accelerated the process toward individualism first with the Workplace Relations Act and then with WorkChoices, which in both cases further increased penalties against trade union activity and introduced more difficult conditions for recruitment and contact with union membership. Many forms of industrial action were for all intents and purposes banned. The Rudd Government further dismantled awards by reducing them to 10 minimum standards and maintaining them purely as a safety net. The Gillard Government has continued with this policy through Fair Work Australia.

Successive governments have been implacably opposed to any form of industrial action by trade unions and supported and encouraged the use of the penalty provisions. The Rudd and Gillard Governments continued this penalisation of industrial action through penalties for unprotected action and, in the Construction industry maintained the Australia Building and Construction Commission (ABCC).

The creation of specific forms of state organisation such as the ABCC was used to control and penalise unions and individual workers. The formation of a state-sponsored group with police powers to monitor construction trade union activities and to spy on individual workers was implemented by Howard and has remained essentially untouched by the Rudd and now the Gillard Labor Governments. The Rudd Government proposed to blend the repressive powers of the ABCC into the new Fair Work Australia regime. This is, in fact, a move toward expanding the repressive powers of the ABCC outside of the building and construction industry. The Greens influence on the new minority government is likely to slow this process and private members bills against the ABCC are possible from the Greens or independents.

## **Your Rights at Work**

Industrial relations was the main issue at the federal election of 2007, moving many thousands of people to alter their vote and shift towards removing Howard, the Coalition and their WorkChoices laws. The Australian people expected to see the removal of WorkChoices with the removal of Howard and with the ascension of a Labor Government. Many were bitterly disappointed.

The Rudd Government did restore collective agreements as the default in the industrial relations system but did not go as far as most workers would like to see. In many other respects, Labor Government industrial legislation under

Rudd and now Gillard can be seen from the table below to be very similar to the policies of the Liberals. The Gillard Government has to decide whether to continue with the current restrictions under Fair Work Australia which can result in workers and trade unionists being jailed.

The fact that it is a minority government adds weight to the belief of the CPA that a concerted campaign from workplaces, trade unions and the community at large should be built and expanded to ensure maximum pressure is put on the government to implement IR laws in line with community expectations. The campaign against WorkChoices demonstrated the power of a united community campaign. We need to learn from this campaign and apply it to the current circumstances to build union and working class power.

We hope you will join with us in this industrial relations debate and in the campaign to ensure Australian workers get the IR laws they deserve after fighting such a valiant and courageous battle against the Howard Government.

## **CPA Campaigning Demands**

Below is a table that summarises the Australian industrial relations system from WorkChoices under Howard to the Gillard government and beyond. The chart provides an easy-to-view means of seeing the inter-relationship of IR matters as society develops. It also highlights the minor changes that the Labor governments have made despite the vigorous efforts of the Australian people in demanding the repeal of WorkChoices.

The CPA believes we need to continue to campaign around IR issues to eventually see industrial relations legislation enacted which provides working people with the best opportunity to take on the forces of corporate greed prevalent in society today. Campaign points can be seen on the chart under the column “current CPA policy/campaign objectives” and they can be summarised by the points below:



Collective bargaining as an absolute right for all workers, to be negotiated between trade unions and employer organisations with rank and file involvement. Individual contracts to be abolished and replaced by collectively bargained agreements;

1. Collective agreements to cover all workers in an industry. NO restrictions on pattern bargaining;
2. The right to strike to be incorporated in law;
3. Trade Unions to have right of entry to workplaces to represent workers and to organise the workforce in appropriate forms;
4. Legislation banning secondary boycotts and strike action be repealed;
5. The abolition of 'Greenfield' agreements\*
6. Legislation targeting a specific union such as the Australian Building and Construction Improvement Act, the legal framework for the ABCC be repealed;
7. Labour shortages to be overcome by skills training of Australian workers as the priority. The importation of guest workers be arranged through international cooperation and international agreements between trade unions and by agreement between Australia trade unions, employer organisations, and the Federal Government. Guest workers to be guaranteed established Australian rates of pay and conditions;
8. An Industrial Relations Commission be retained with appointments to the Commission comprising an equal number of trade union and employer representatives;
  - The Commission to have powers of conciliation but not arbitration except by agreement. The reference of a dispute to the Commission to be a last resort;
  - The Conciliation Commission not to have power to make orders or impose penalties.

ISSUE	WORKCHOICES	GILLARD GOVERNMENT	CURRENT CPA POLICY/ CAMPAIGN OBJECTIVES	PEOPLES GOVERNMENT	SOCIALISM
Collective Bargaining	<p>Erosion of Collective Bargaining through the introduction of AWAs (individual contracts)</p> <p>No rights to Collective Bargaining</p>	<p>Majority in workplace Collective Bargaining is enforced 50% + 1</p> <p>Collective Bargaining is enterprise based</p>	<p>Collective Bargaining as absolute right</p> <p>Remove capacity for non-union bargaining</p> <p>Move to broader pattern bargaining as a means to strengthen industry wide agreements</p>	<p>Industry based + local expanded negotiations</p>	<p>Industry based and wider</p> <p>Higher level of legislated working conditions and rights</p>
Award	<p>Awards limited and stripped</p> <p>Set up to be further stripped in the future</p> <p>Safety Net only five minimum conditions</p>	<p>Safety Net only ten minimum conditions further stripped and eroded</p>	<p>Industry wide collective agreements</p> <p>Conditions gained by a majority of workers to be legislated (similar to award conditions prior to award stripping processes)</p>	<p>Legislated Industry wide collective agreements</p>	<p>Socialist laws would protect workers rights and entitlements</p>

ISSUE	WORKCHOICES	GILLARD GOVERNMENT	CURRENT CPA POLICY/ CAMPAIGN OBJECTIVES	PEOPLES GOVERNMENT	SOCIALISM
Freedom of Association	FOA used to strengthen position of non-unionists	Slight improvements in FOA due to the strengthened collective bargaining position but no real changes	FOA should protect unionists from discrimination	FOA will protect unionists from discrimination	Becomes irrelevant
Scope of Agreements	Limited because of prohibited content i.e. disallowed matters relating to the relationship between union and employer	Greater scope by reduction of disallowed matters Agreements generally enterprise based	Any content Industry wide agreements should be sought	Any content Industry wide agreements should be sought	Any content – socialist in nature Agreements to build on social development and more broadly deal with and include social issues
Union Rights	Restricted or removed none to limited	Less limited than WorkChoices	Secondary Boycott provisions Right to strike Right of entry provisions Organising rights (See relevant sections)	Full Union Rights	Full Union Rights

ISSUE		WORKCHOICES	GILLARD GOVERNMENT	CURRENT CPA POLICY/ CAMPAIGN OBJECTIVES	PEOPLES GOVERNMENT	SOCIALISM
Right of Entry	Limited in scope	Limited in scope	Limited in scope	Full Right of Entry	Full Right of Entry	Full Right of Entry becomes a non-issue
Organising rights	Limited and removed from agreements Criminalisation of unions	Limited and removed from agreements Criminalisation of unions	Current removed content to be re-introduced into agreements Criminalisation of unions (see ABCC)	OHS & Trade Union delegates training and committee meetings be paid and in work time Rights to represent and organise guaranteed in law	Expanded trade union and worker rights guaranteed in law	Full union rights guaranteed in law
Negotiating	Employer alone (Greenfields*) Union collective Non-union collective * 'Greenfield' refers to the situation where a company signs an agreement with itself and a union that it has chosen to represent workers in order to get the best outcome for the company and inferior pay and/or conditions for the workers.	Employer alone (Greenfields*) Union collective Non-union collective	Employer alone (Greenfields*) Union collective Non-union collective	Abolish Greenfields* agreements Rank and file participation with union officials in union collective agreement negotiations Remove non-union collective agreements	Rank and file participation in union collective negotiations	Government (State)/ employer/rank and file & union officials all participate in negotiations



ISSUE	WORKCHOICES	GILLARD GOVERNMENT	CURRENT CPA POLICY/ CAMPAIGN OBJECTIVES	PEOPLES GOVERNMENT	SOCIALISM
Right to strike	Limited to bargaining period	Limited to bargaining period	Right to strike to defend workers position Right to strike during bargaining periods Right to strike around political demands	Right to strike	Right to strike guaranteed in law
AWAs	Individual statutory agreements are the basis of the system	Remove statutory individual contracts Common law EBAs Common law individual contracts	Collectively Bargained agreements as primary form of industrial Instrument Abolition of AWAs Ability to terminate an AWA or individual contract a workers prerogative	Collective bargaining only	Becomes non issue with generally legislated rights

ISSUE	WORKCHOICES	GIILLARD GOVERNMENT	CURRENT CPA POLICY/ CAMPAIGN OBJECTIVES	PEOPLES GOVERNMENT	SOCIALISM
<p>Australian Industrial Relations Commission (AIRC)</p>	<p>Strip powers to act independently (even in appearance) Enforce penalties on unions Police unions</p>	<p>Slightly increase conciliation and arbitration powers during bargaining periods Maintain penalty powers against unions</p>	<p>Remove penal powers against unions Conciliation &amp; arbitration last resort Main issue is removal of penal powers Campaign around appointments and politically biased nature of them Appoint union/worker representatives (not ALP representatives but from unions themselves) All industrial matters to be dealt with between parties firstly then in the AIRC if necessary Remove any capacity to have matters dealt with in the Federal/supreme or other common law jurisdictions</p>	<p>Remove penal Powers Conciliation &amp; arbitration as a last resort Appoint union/worker representatives</p>	<p>Remove penal Powers Conciliation &amp; arbitration as a last resort Consider the socialist economy and state in all matters Appointments in accordance with working class rule</p>

ISSUE	WORKCHOICES	GIILLARD GOVERNMENT	CURRENT CPA POLICY/ CAMPAIGN OBJECTIVES	PEOPLES GOVERNMENT	SOCIALISM
Unfair Dismissal	None to limited capacity for unfair dismissal	Limited capacity but not worker friendly	Strengthen to all workers and improve by legislation the powers to re-instate and compensate workers	Strengthen to all workers and improve by legislation the powers to re-instate and compensate workers	Socialist laws would protect workers
Labour Shortage	457 visas to undermine working conditions for local workers and a new way of slavery for guest workers	Monitor 457's but not curtail exploitative nature of guest workers visas	Training/skill Development Solidarity pacts between unions made on internationalist and cooperative basis International cooperation and solidarity	International cooperation Training and skill development Solidarity pacts between unions made on internationalist and cooperative basis	International cooperation Training and skill development Solidarity pacts between states made on internationalist and cooperative basis
Australian Building and Construction Commission, ABCC	Empowered aggressive and intimidatory	2010 – powers expanded into fair work Australia masquerading the repressive nature of ABCC	Abolish	Abolish	Would be no need for the ABCC or any other state sponsored organisation with police powers