



# OUR UNION-CENTRIC WORKPLACE RELATIONS SYSTEM IS IN NEED OF REFORM

*Labor's Fair Work Act is unfair to 89 per cent of workers in the private sector*

**STEVE KNOTT**

News that trade union membership has fallen to just 11 per cent of private sector employees has provoked a great deal of discussion about the future of unions and the ALP, but it also poses significant questions for the operation of our union-centric workplace relations system.

When the Fair Work Act was framed after the 2007 election, the Rudd government, with the help of the ACTU, went well beyond reversing Work Choices and unwound decades of successful reform under Howard, Hawke and Keating.

Significantly, this included providing a massive artificial leg up to trade unions struggling against long-term membership decline and failing to garner support from newer generations of employees.

The legislation does virtually everything possible to guarantee unions a seat at the bargaining table for every new enterprise agreement. Since 2009, a union has needed to have just a single member to be covered by a pro-

posed new agreement to participate as a critical bargaining party. Any employee who doesn't support this arrangement needs to formally write to the union informing they did not wish to be represented by them.

Further, where unions can garner support from more than 50 per cent of the workforce, they can force businesses to bargain for a collective agreement with the union for the entire workforce.

Unions are also mandatorily involved in bargaining for employment on new projects at a point in time where no one has been hired, with no ability to ensure unions ac-

tually represent what employees want or whether those employees will ever join the union.

The Fair Work Act also promotes union leverage by making it far more difficult for employers to bargain directly with employees, especially when there is any level of union involvement at a work-site. Even where an employer tries to deal directly with employees, unions will often use entry rights to run campaigns against the employer's proposed employment agreement.

By significantly narrowing the range of agreement making options for employees and their employers, it has become almost impossible to negotiate a collective agreement without union involvement. The ability to make new individual agreements was also abolished.

The third area where the Fair Work system sought to address dwindling union influence was to significantly expand powers for union officials to enter workplaces and drive membership campaigns.

Despite assurances to the contrary, changes by former prime minister Kevin Rudd and deputy prime minister Julia Gillard saw union officials turn up to sites on a daily basis where there was previously no union presence and no right to enter, to harangue uninterested employees into joining their union. Further "right of entry" expansions by then workplace relations minister Bill Shorten ensured union officials could interrupt employees while they were eating lunch, even where the workforce had never shown interest in what the union had to offer.

Australia is also the only coun-

try to retain an awards system, which has expanded under Labor's legislation, that makes unions central to setting the terms and conditions of employment for the vast majority of employees that don't join trade unions.

After six years of watching these laws play out, two things stand out. This legislated life support has not stemmed the bleeding. Despite the privileged role given to unions under the Fair Work Act, membership has continued to fall since 2009, from an already low 13.8 per cent to just 11.1 per cent of private sector employees. Just as an employer failing to reverse its fortunes after receiving financial assistance must fundamentally review its strategies, products and business model,

unions failing to redress long-term membership decline after years of artificial assistance from the Fair Work legislation need to have a long hard look at what they offer and how they operate.

The bigger questions, however, are whether our workplace relations system is delivering the right options and protections for employees and employers, and whether it is the best for jobs, economic growth, living standards and what we can achieve as a country.

Nobody is suggesting unions don't have a role to play in workplaces where employees want to be represented by them. But with the Productivity Commission shortly to make its final recommendations on how our workplace relations laws should be

shaped for the future, a priority must be according a role to trade unions only where employees freely chose to join them, want to be represented by them and where



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employees support the claims the union is pursuing on their behalf.

A genuinely modern workplace relations system must provide an improved range of options for the 89 per cent of Australians in the private sector who choose not to join a union, rather than trying to shoehorn employees into workplace relations arrangements predicated on levels of trade union membership that are decades out of date.

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