

Election strategy after WorkChoices

Ken Phillips

The Federal Government's labour reforms have allegedly set the scene for the main battle at the next federal election, due in late 2007. But there is more to the reforms than appears on the surface. The reforms are, in fact, a complex mix of short-term politics and longer term cultural change. And there is an unrecognised political cunning embedded in the reforms connected to an unexpected philosophy which underpins them.

It's partly explained by the following story.

Some years after the collapse of the Berlin Wall, two ageing men sat in a television studio being interviewed about their beliefs. One had devoted his life to the defeat of communism. The other had devoted his life to the rise of communism. One seemed to have won, the other lost.

In their earlier years, they had been hotly and personally opposed to each other. They had been high-profile class warriors and 'machine' men, strategising within unions and political parties to defeat each other. But now with communism defeated, and in their twilight years, they had discovered a common bond. The thing they both feared the most was unrestrained capitalism. The only thing that could restrain capitalism, they argued, was the power of the state.

In the current debate over labour reform in Australia, the bonded view of these two, now deceased men, brings some missing understanding to the issues. WorkChoices is the key example.

The union and ALP branding of WorkChoices as 'extreme' and as the

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'unleashing of employer power' is factually wrong. It is sloganeering rather than analysis. It's possible that it is backfiring upon them.

Union and ALP campaigning against WorkChoices promotes the belief that without union and industrial relations commission (IRC) power, employees will always be exploited in Australia. They exclusively tie the idea of 'employee rights' to union legal privilege in a pseudo-court system, the IRC. This has been the comfortable idea that has cradled class consciousness in Australia for over 100 years.

WorkChoices largely neuters union and industrial relations commission powers, but its real trick is that it heavily constrains employers. The union/ALP combined attack has failed to recognise this—at least in public. WorkChoices in fact transfers union/IRC power directly to the federal Minister for employment and, through him, to a vastly expanded employment-policing bureaucracy. It's a model that perfectly fits the vision of the two old men.

WorkChoices imposes on employers a vast new array of highly detailed regulations about what they can and cannot do in their relationships with employees. This not only covers obvious things, such as remuneration, but it also limits the freedom to pay out all holidays, creates strong preference for full-time work and limits the types and styles of industrial agreements that employers can enter with

unions, to cite just a few examples.

And the regulations can be—and are being—changed at whim under WorkChoices. This facilitates both the closing of missed legal loopholes that give unions power as well as picking up unaddressed items where employers have stepped out of line. It's a great advance of red tape and it constitutes a victory for the view that government can micro-manage employer-employee interaction.

But the ALP has misinterpreted this and that has caused them to misdirect their political campaigning. Australian unions have been blinded by their belief that a decline in union power harms workers. Workers and families don't necessarily see it this way. But the ALP has capitulated to this campaigning position because unions dominate the ALP's campaign financing.

The Coalition's IR bet

The counter-campaign by the Coalition Government is simple. They have created a big new bureaucracy to police employers. Largely under the Office of Workplace Services (OWS), the task is to catch and fine as many misbehaving employers as possible and to maximise the associated publicity. The idea is to demonstrate to average Australians that the government disciplines employers better than unions. Early indications are that the OWS is succeeding and has an expanding and proudly advertised list of prosecuted employers.

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The Federal Government's political bet on WorkChoices is that, by the time the election occurs, middle Australia will no longer fear WorkChoices and instead will be impressed by the new reality of government disciplining employers.

This is cunning politics. By largely neutering union legal privilege, the Coalition has significantly detached the unions' institutional needs from ALP's political needs. Once an institution is irrelevant (in this case, the IRC), middle Australia has always moved on.

The ALP needs to connect with middle Australia, but the union movement wants to re-create its legal privilege. And the Coalition is playing the unions' negative image against the ALP to diminish its claims to relevance. The ALP is caught because it needs union money but not the unions' image as a group of bullies.

At least this is how the Coalition hopes that events will play out.

For people in business, from small to large, the release from the intimidatory legal power of unions and the IRC is a great relief. The comparative groaning weight of WorkChoices regulations is, by comparison, a minor irritant. Consequently, it's easier for people in business to get on with business.

But there's also a political hook in WorkChoices for the business sector that probably drives business into the Coalition camp. Now that union legal privilege has been curtailed, business does not want a return to the old ways. And broad business support is traditionally critical for any political party in Australia if it wants to win government.

The ALP's wormhole

The ALP needs business support. To attract business sympathy, the ALP could soften its pre-election language on WorkChoices. To really win business support, the ALP would probably need to go as far as saying that WorkChoices would be retained.

Because WorkChoices is so regulation-dependent, the ALP wouldn't need to repeal WorkChoices in order to destroy it. An ALP government could retain WorkChoices but, through regulation, deal unions back into the game of legal privilege. It would be quite simple.

Business generally senses this, which means that the direction of business electoral sympathy becomes 'trust' dependent. The question becomes, who can be trusted to keep negative union behaviour curtailed: the Coalition or an ALP dependent on unions?

The Coalition has locked in business support without introducing a free market in labour. WorkChoices has produced a highly regulated environment. But it fits the vision of the two old men who, despite their disagreement about the desirability of full-blown communism, distrusted business even more. It's an old style 'conservative' reform, not a free market one.

Unions have assisted the Coalition by presenting WorkChoices as if it were rampant free market capitalism which has unleashed unfettered employer power. This has led the ALP to campaign in the wrong direction.

With all this in mind, the approach

of the new Federal ALP leader, Kevin Rudd, becomes interesting. He is caught in a bind—needing business and union support but almost destined to alienate one or the other. However, he seems to be exploring ways out of the situation.

One of his first decisions was to create a shadow minister for independent contractors, outside the industrial relations portfolio. The Coalition had sought to capture this swinging constituency by creating an *Independent Contractors Act*. But the Coalition has kept this group within the administrative embrace of the Employment Minister. The Coalition still sees independent contractors as pseudo employees and broadly within the conservative framework of WorkChoices.

By creating a separate portfolio tied to the business portfolio, Rudd has demonstrated that he sees independent contractors as businesses, not employees. This is a creative step beyond the Coalition's political perspective. It has the potential to reach out to the small business sector. It also demonstrates a broader view of society than that of the Coalition, and a capacity to break from the beliefs normally forced on the ALP by Australian unions.

It hardly seems conceivable that the unions will allow Rudd to continue in this direction and implement more steps outside of the Left-Right status quo of Australian political thought. Even if middle Australia has moved beyond class consciousness, Australian political orthodoxy is stuck within it.

But if Rudd were to succeed, it could be odd to see the ALP introduce an open market for labour in Australia—open, that is, in comparison to the Coalition's regulated market. Hawke and Keating surprised Australia by opening Australia's banks to competition and starting the process of tariff reductions. Rudd may need to take as big a gamble as Howard, but the rewards—for the ALP and the Australian economy—could be enormous.

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